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PROCEEDINGS
OF THE
BARODA COMMISSION

APPOINTED TO INQUIRE INTO THE CHARGES AGAINST

H. H. MALHARROW GAEKWAR OF BARODA

OF INSTIGATING AN ATTEMPT

TO POISON THE BRITISH RESIDENT.

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BARODA COMMISSION.

OPENING OF THE ENQUIRY.

(BY OUR OWN REPORTERS)

(*Re-printed from the Times of India.*)

BARODA, FEB 24, 1875.

YESTERDAY the Commission of Enquiry into the charges against His Highness Mulharao Gaekwar was opened by Sir Richard Couch (President), His Highness Maharnaj Scindia, His Highness the Maharajah of Jeypore, General Sir Richard Meade, Sir Dunker Rao, and Mr. Melville.

A little before the hour fixed for the commencement of the Enquiry, a guard-of-honour, consisting of a hundred men of the 22nd N I, was placed at the gate leading to the Court. Four carriages containing the members of the Commission then drove up, the foremost carriage containing the Maharajah Scindia, accompanied by a body-guard of lancers. In about ten minutes more another carriage containing Sir Lewis Pelly and Mulharao arrived, also accompanied by a body guard.

Sir Lewis Pelly conducted the Gaekwar to the seat reserved for him on the dais to the left of the Commissioners' seats. His Highness looked pale, and he seemed rather nervous, as was perhaps natural under the circumstances. He was neatly dressed. He wore the red turban of his caste, white muslin tight trousers, a muslin surtouf trimmed with green silk, and over all a white muslin toga. His jewellery was in keeping, a necklace of pearls fringed with rubies and emeralds. He wore no rings, but pearl pendants hung from his ears.

The Advocate General and Mr. Inverarity, instructed by Messrs. Hearn, Cleveland, and Lee-Warner, appeared for His Excellency the Viceroy in Council; Sergeant Ballantine, Mr. Branson, Mr. Purcell, and Mr. Shantaram Naraven, instructed by Messrs. Jefferson and Payne, appeared for the Gaekwar. Mr. Vasudev Jugonauth, pleader of the High Court, also watched the proceedings on behalf of His Highness.

The proceedings opened at twenty minutes past eleven by the Clerk to the Commission reading the proclamation, which was translated into Mahrathi and Hindustani by Mr. Flynn, the interpreter.

The Queen's Advocate informed the Commissioners that arrangements had been made for taking short-hand notes of the proceedings, and if his Lordship the President and the other Commissioners wished to be furnished from day to day with notes of the proceedings, that would be done.

Sergeant Ballantine said there was one other matter. One or two witnesses whom they might wish to call under particular circumstances would be of very great importance. They had made endeavours to obtain their presence, and might yet possibly and probably be successful. He mentioned this because he ventured to think that if they did not succeed his Lordship would assist them.

The President intimated that every assistance would be given. It would also be very convenient to be furnished with short-hand notes of the proceedings.

Sergeant Ballantine, in thanking his Lordship, said that it had been agreed that short-hand writers should be engaged on both sides, so that in case of any mistake arising they might be able to correct such mistake.

SPEECH OF THE QUEEN'S ADVOCATE.

Mr. A. R. Scoble then rose to state the case for the Crown. He said My Lord, the President, you Highnesses, and gentlemen of the Commission—it now becomes my duty on behalf of His Excellency the Viceroy in Council to state as briefly as the importance of the case will permit the nature of the evidence which it is proposed to adduce before the Commission in regard to the charges which have been preferred against His Highness Mulharao Gaekwar. As the Commission has gathered from the notification which has just been read, evidence has been laid before the Government tending to raise grave

suspicions against His Highness. Those suspicions relate to four charges which have also been read, and which may really be reduced to two. The first one is that His Highness through his servants tampered with the servants em^m the servants instigated

attempting to poison their master, Colonel Phayre, the British Resident. In stating the main facts of the evidence which will be adduced, I do not propose at present to do more than give the briefest summary. As this is not a trial but a judicial enquiry in which the decision of the Commissioners will be by report, and will not be reduced to the form of a verdict, I think it will be more convenient in the present state of the enquiry that I should put before the Commission the character of the evidence which I propose to call. There are matters referred to in the notification which has been read which are unimportant, and which will only be used by me for the purpose of fixing dates. In regard even to the principal matter mentioned in the proclamation, the result of the Baroda Commission, I shall refer to it only to fix the dates on which the evidence shows the attempt to tamper with the Residency servants began to be made. That Commission, as you will perceive, was appointed on the 28th (October 1871), and met in Baroda during the two following months of November and December. During these months it was that by means of two *pasos* or confidential servants of His Highness Mulharao, named Salim and Leshuntrao, that communications were opened with the servants of the Resident, and the Residency servants, for the communications were not confined to the mere formal official servants of the Residency, but also to the private servants of the Resident himself. The officer who then held the appointment was Colonel Phayre, and at the time to which I refer Mrs Phayre was also in Baroda. Her ayah was one of the first persons to whom communications were made. When Mrs Phayre went away, this ayah, whose name is Ameena, was transferred to the service of Mrs Phayre's daughter, Mrs Boevey. The ayah had been in her service a considerable time and enjoyed the confidence of her mistress, and she was not therefore suspected when she visited His Highness the Gaekwar's palace. According to the evidence which I am instructed to place before the Commission, she visited His Highness on three occasions. The first occasion was during the sitting of the Commission and therefore in the end of 1873. The second visit was made after the close of the proceedings of that Commission, and after the return of His Highness and the British Resident from Nawsaree, to which place the Resident had accompanied His Highness in the middle of May 1874. The third visit was at a later period, and the date of it is fixed by the ayah herself as not long before the time of the attempt to poison Colonel Phayre. On these three occasions the ayah was introduced to the presence of His Highness. She saw him personally and held conversation with him. She was conducted to his presence by one whose name and position I have already mentioned. For what she had come to the palace on these three occasions will be established in evidence by the testimony of persons who accompanied her upon those occasions. On one occasion she was accompanied by a *chobdar*, named F. 200, and she was driven from a point near the Residency, which seems to have been a regular meeting place, near a little school, by the driver of a carriage in which she was taken from the neighbourhood of the Residency to the palace of the Gaekwar. On the first occasion the name of the cart-driver was Habib. The person who accompanied her was F. 200, and she was met by Salim who introduced her to His Highness. On that occasion the service which she was asked to perform was that she should intercede with her madam on behalf of His

Highness, in other words, that she should use her influence with Mrs Phayre to influence her husband favourably towards Mulharao. On the second occasion after the return of His Highness and Colonel Phayre from Nawsaree, she was accompanied by another Residency servant named Karim, and again introduced to His Highness and had conversation with him. On the third occasion, during the month of the Ramzan, she was again induced to go to Salim, and was driven by a cart-driver of the name of Dawood. A conversation took place on this occasion, but I consider that it would be better to let her relate that conversation herself when she is placed in the witness box rather than that I should repeat even the substance of it. The Commissioners will see from the statements which I have just made that these three visits will be spoken to by persons other than the ayah herself, and they will establish beyond doubt that three visits were really made. On the occasion of the first visit it does not appear that any pecuniary present was made. The sum of Rs 200 was paid by Salim, and was to be divided, one half to Creemam the other half paid to Ameena. On the second visit Rs 1 were paid to the ayah, and if further corroboration of the truth of the ayah's statement be needed, I believe I can call her husband, Abdullah, who, by section 167 of the Evidence Act, may relate accounts given to him when contemporary statements have been made. But not only does the evidence of the ayah find support from that kind of testimony, but most important corroboration will be found in certain documents which after her arrest were discovered in her room. These documents are four letters two addressed by the ayah to her husband, and two by the husband to the ayah. They point most conclusively to the establishment of a correspondence between the ayah and His Highness by means of Salim. Of the authenticity of these letters the Commissioners can have no doubt. The circumstances under which they were found will be detailed to the Commissioners; the writing of the two by the husband will be attested by him, and he would also recognise the handwriting of his wife.

Sergeant Ballantine, who spoke so low as to be almost inaudible at the reporters' table, was understood to say that, while he knew he was entirely in the hands of the Commissioners yet it occurred to his mind that these letters could not be given in evidence, and he was sure were not likely to make any impression on the Court. He would not however at that stage of the proceeding, make any objection but when the proper time came he would state his views on the subject.

Mr Scoble continued. I shall certainly maintain that these letters are evidence but I will not state the purpose of them until I ask the Court to allow me to produce them. There is one other point I should mention in regard to the ayah's evidence. She is an important witness whose evidence there can be no doubt will be subject to a somewhat severe cross examination by the learned Sergeant. I think I ought to say in regard to her evidence that at the time she made her preliminary statement she was suffering from a severe illness, pronounced indeed by her doctor to be in danger of death. I think that that will have an important influence on the minds of the Commissioners and add to the weight which ought to be attached to her evidence. I will just mention to the Commission the cases of two persons servants at the Residency. They were private servants of Colonel Phayre, and they received presents of money from His Highness through his servants for the assistance which they were expected to give. There is the case of another Residency servant in regard to whom it seems overtures were made of a similar character. His name was Pedro, and he was butler to Colonel Phayre, and I believe had been in his employ for nearly twenty five years, and in whom there was the greatest confidence. The same individuals who had got hold of the ayah entered into communication with him, and although he stated that he refused to go to the

face, he received a present of Rs 60 Gaekwaree, which were equivalent to about Rs 50 Company. I now come to a more important class of evidence that is the evidence connecting the attempt of obtaining information of what was going on at the Residency with the attempt which was afterwards made to take away the life of Colonel Phayre, and when I have placed the evidence before the Commissioners I think they will have no doubt that such an attempt was made, and that it was entirely due to the mercy of God that that attempt was frustrated. The discovery of the attempt took place on the 9th of November last, but on two of the previous days the evidence shows that there is strong reason to believe that two similar attempts were made. The agency employed in these attempts was that of a certain officer of peons attached to the Residency named Hower Rowjee. Communications had before been opened between him and a sort of servant or havildar before the Commission sat, so long ago as September 1873. He was taken by Salim to the palace, and here according to his statement, he supplied information of what was going on at the Residency during the sitting of the Commission and he agreed to do it. According to his statement he paid three visits to the palace during this period, on each of which he had an interview and conversation with His Highness. After the Commission had concluded its labours and before His Highness and the British Resident went to Nowsaree, this havildar visited the Gaekwar three times, and as he was about to celebrate his marriage he was given a present of Rs 100. At Nowsaree he renewed his communications with His Highness and his servants. After his return he did the same, and not long after his return from Nowsaree a sum of Rs 100 was handed over to him and another man who had been induced to join in the scheme. Part of that Rs 800 was divided between those two men and one Jugga, a putty-wallah who from his position had opportunities of hearing what was going on, and summarised every evening what he had heard during the day in the form of a letter written by him to Rowjee, Salim, and Yeshvuntrao. I may mention here that after the arrest of Salim who was handed over to the British authorities by His Highness on application, his house was searched in the presence of officers of His Highness, and a bundle of papers was discovered and sealed up. Some of these letters were discovered in that bundle and are now in my possession. One is in the handwriting of Jugga, the other it is not known who wrote it. These I shall also use in evidence unless the learned Sergeant makes the same objection as he has already done. As I have already stated, a present of Rs 100 was made to Rowjee at the time of his marriage. A subsequent present of Rs 100 or Rs 100 was also made after the return from Nowsaree. I shall call evidence before the Commission to show that at the time these payments were made this Rowjee had only a small income, and yet that he was possessed of considerable sums of money and spent large sums in purchasing ornaments, and indeed lived in a style quite inconsistent with his wages and his position. I shall prove also that in his visits to the palace he was accompanied by Rowjee, sometimes by another man, because he had some fears and did not like to walk about at night. That he had the ornaments I have mentioned will be established by the evidence of the men to whom he gave the orders and by the evidence of the goldsmith who made them. In regard to the havildar, I shall show that while at Nowsaree in attendance upon Colonel Phayre, he received Rs. 200 as a present, and received a portion of the Rs 800 I have already mentioned as having been divided. I think, therefore, that the Commissioners, if they believe the evidence of these witnesses, will have little doubt that these connections with some of the servants of Colonel Phayre existed for an improper purpose.

on the part of His Highness and that bribes were received by these servants for the purpose of obtaining from them the information to which I have referred. In regard to some communications which were made by Rowjee's wife to himself directly or by means of letters, evidence will be contained in the letters themselves. In regard to other matters—matters of great importance—other evidence will be given by witnesses—or at any rate a witness—who received these papers and read the contents to His Highness. Among the documents I got was at least one official document of considerable importance, but I intend to allow these documents to speak for themselves. I come now to the most important branch of the case—the attempt to poison Colonel Phayre. That attempt was discovered by Colonel Phayre on the 9th November last, although it appears that two previous attempts were made on the 6th and 7th of the same month. The person by whom the poison was to be administered was Rowjee, the havildar, already referred to. The method employed for administering the poison was this. Colonel Phayre was in the habit every morning either of walking or of riding, directly he rose. On his return he used to proceed at once to his office, in a small building adjoining the main building of the Residency. In this small building he had dressing accommodations, washstand, dressing table, &c. It was the duty of Abdullah, one of his servants, to prepare a tumbler of sherbet made from pumaloos. I shall call this Abdullah, and he will state the method of making it, and the manner in which he disposed of it. He used to place it on a table in the inner room and leave it there. On the morning in question—the 9th November—Abdullah prepared this sherbet as usual. Although the havildar had no immediate occupation in the small room, yet he was occasionally in the habit of going in to purloin a pen or piece of paper, or to make some minor arrangements. The position which he occupied at the hall of Colonel Phayre was on the verandah outside the private office of the Colonel, where there was a bench for him, and from which position, as he sat on the bench, he could see so much of the inner room as was occupied by the table on which the sherbet was placed. The havildar, therefore, by standing or sitting in his own place could see the sherbet and could see if the Colonel drank it. Upon the morning in question, it will appear from the havildar's own statement, he saw introduced the poison which was so nearly fatal to Colonel Phayre. The method adopted for securing the due administration of the poison was this. The arsenic was mixed with some water and a solution made, and they were shaken well together so that the poison would mix. He then poured it from this small bottle into the sherbet. That there was poison in this sherbet there cannot be the slightest doubt. Colonel Phayre came in from his walk and took two or three sips from it but it seemed strange to him possibly he thought that the sherbet was made from bud pumaloos, and he threw a portion of it away. He sat down to his work but symptoms exhibited themselves which he attributed to me general or ordinary illness. He found great nausea, dizziness in the head, and other uncomfortable sensations which led him to think that something had disagreed with him. He examined the remains of the sherbet and noticed a small sediment. He at once wrote to Dr Seward, the Residency physician, and asked him to come. This note was given to a servant named Mahomed. Dr Seward came to the Residency and heard from Colonel Phayre an account of the symptoms. He took away the remains of the sherbet and at once commenced an investigation, which satisfied him that the sediment was composed partly of arsenic and partly of a glittering substance, which he supposed to be diamond dust. Not satisfied with the result of his own experiments he sent the remains of the sherbet to Bombay to Dr. Gray, the chemical analyst to the Government.

ment, whose analysis resulted in precisely the same opinion as that of Dr Seward. I think, therefore, that upon the medical evidence there can be doubt that in this sherbet on this morning a poisoning dose was introduced which might have taken away the life of Colonel Phayre, if he had drunk the sherbet. Now to connect His Highness the Gaekwar and his servants in this attempt, it will be proved beyond question that on the morning of the 9th November these two men, Yashvuntrao and Salim, who had been employed in all these communications had gone to the Residency unusually early. Their presence there will be testified to by a number of witnesses. On being asked by one witness why they came so early, they said that they had come to bring a present of fruits, but I shall show that this is deceptive. A present of fruits did arrive, it is true, but not till long after they had arrived. They came at 6 o'clock, but the fruits did not come till 8 o'clock. I have mentioned to the Commissioners that Colonel Phayre on having his attention directed to the sherbet sent a note to Dr Seward by a peon named Mahomed. That note was delivered by him, and he then went to the town at the request of Salim to get some biscuits. Whether, however, he went for biscuits or to give information, is a question for the Commissioners to determine. Another point is this when Colonel Phayre had tasted the sherbet, and had set down the remains of it in his glass on the table and after I think he had sent the message to Dr Seward Salim went off at top speed into the town. He went to Rowjee's house. What he did there I am not in a position to say otherwise than from statement given to a witness named Damodhur Punt I will now state with what object it will be more correct to let it be stated by the witness himself. He returned after this visit to the Residency, and saw Mr Boevey, the Assistant Resident, and had some conversation with him. Now I come to another class of evidence in regard to this part of the case. I have said that the poisonous substance was arsenic accompanied by diamond dust. Of the poisonous qualities of arsenic it is unnecessary for me to speak. As to the diamond dust I can show that it is widely believed in India to be an effective poison as arsenic. Dr Chevers, at page 289 of his Indian Medical Jurisprudence says: Although this material has no place in Taylor's Medical Jurisprudence it is certain that the people who existed in Europe believed in it as a poison in days gone by, and it is widely believed in India as a potent poison at the present day. The evidence of a person, named Damodhur Punt, who held the position of Private Secretary, and who was also Khanger Whaler or the other who has charge of the treasury, would be that application was made to him by His Highness to obtain arsenic. In the first instance the Punt endeavoured to obtain two tolas of arsenic from a Fouzdar. It was said that the arsenic was wanted for a horse but it was not obtained. Subsequently, however, they obtained the required quantity from a boraal who gave it as I have already stated. In regard to the diamond dust, Damodhur Punt declares that it was obtained from a jeweller named Hinchund Futtchund, by direction of His Highness the Gaekwar, given to Yashvuntrao, the other associate. The arsenic and diamond dust appear to have been compounded together and then handed over to Salim and Rowjee on two occasions. The witness Rowjee will state that it was by the express direction of His Highness that Salim to ordered it, and gave the powders to them. The first came through Salim to give to Rowjee. It seems certain, judging from the evidence I have, that the powder so supplied was the powder which it is shown was administered to Colonel Phayre on the 6th and 7th November last. That powder did not take effect, and upon seeing His Highness they were severely blamed by His Highness, who complained that the poison had not been efficacious. He said he should send a further supply, which was done. Rowjee

says that of the powders he used some remained. Of those which remained with him one has been found. On the 9th November last, after the analysis by Dr Seward had satisfied Colonel Phayre that poison had been administered, Rowjee was arrested on suspicion. A belt was taken from him, and I shall be able to trace the history of that belt. In one of the coarse pieces of which the belt was made a small packet was found, in which was a portion of a powder wrapped up in paper and on being submitted for analysis it was found to contain seven grains of arsenic. A full dose consists of two or three grains. It must be obvious to the Commissioners and to all who have heard the statements I have been making, that the evidence on this point will depend upon the degree of credibility that can be attached to the statements of Damodhur Punt and Rowjee, but I think when the Commission has heard the manner in which that evidence was given, the entire absence of all communication between the three persons, that each told the story without communication with the others, and that yet they agreed, I think you will say that although some amount of the doubt must attach itself to their testimony, which always attaches itself to witnesses who confess yet that these men are telling a true story. I should mention that Rowjee made his statement after a promise of pardon as also did Damodhur Punt. The statement of Nursee was not only made under no such promise, but, after he had been told that no pardon should be given him at all, and therefore the Commissioners will be led to form an opinion of its credibility. One other circumstance in regard to Nursee deserves to be mentioned. He had been in service at the Residency for many years, and had held a high position there, as I have already said. After he had made his confession he felt so full of remorse for his conduct that he attempted to make away with himself. When he had made this statement and was leaving the Residency he attempted to drown himself. He broke away from his guard and attempted to throw himself down a well. I think that if the Commissioners think fit to visit that well it will be evident to them that any one in making such an attempt must have done so for the purpose of self-destruction. But the evidence of Damodhur Punt not only corroborates the evidence of Nursee and Rowjee, but is corroborated by documentary evidence derived from the accounts of His Highness's private expenditure. I shall be able to place before the Commissioners a number of these facts. His Highness's accounts were kept with that regularity which always distinguishes accounts in this country. I shall be able to show that the payments which were made about the date which I have mentioned nearly coincide with the amount I have mentioned. The sums are not exactly the same. They are very nearly the same, and there can be little doubt that the difference is made by the dispensing officer retaining a little for his share. I shall show that subsequently to this enquiry the clerks and officers who had charge of these items were made to deface entries by pouring a quantity of ink over them, the object of which cannot be doubtful. I shall show, moreover, from these same accounts how these payments were made to the jewellers for the diamonds which were afterwards made into dust. In regard to these accounts the Commissioners will see that the entries were entirely correct according to the statement of Damodhur Punt when he had no access to the books and was speaking from memory. I shall show from these entries the means employed to pay these items. The payment for the diamonds was Rs 3,000, and there are a number of cross entrances. There was an account called the Khasgar or saving account. Two items of that account were made in part payment for the supply of diamonds. One of these items was an item in relation to some oil supplied to the Gaekwar, and amounted to Rs. 1,800 and some annas. One hundred and fifty rupees had been deducted under another head, which it will be seen adjusts the balance.

These entries are in the handwriting of Damodhur Punt, directing that these amounts should be paid. The other item of Rs 1,926 1 was realised by the sale of coins. That had been entered under date two days before the previous item. Now if these items be added together we get the aggregate amount paid to the jewellers. No such payments were made in the ways so given, but the entries will show that this total was in point of fact Rs 3,000 to the jeweller Hem.bund. It will also be noticed by the Commissioners that the order directing these details to be paid is dated previous. We have an account on the 9th, but it was the 8th when the order for payment was dated. Hem.bund, the jeweller, will of course be able in his evidence—which will be important—to show that it was intended these purchases of diamonds should be kept secret. He was ordered to tear out a portion of his books in order to conceal the sales. I now come to another piece of evidence which, I think, materially affects His Highness personally. It was his habit twice a week—every Monday and Thursday—to visit the Resident. The attempt to poison was made on Monday, the 9th November, and His Highness visited Colonel Phayre as usual. Colonel Phayre was still suffering when the Gaekwar visited him, but had not heard from Dr Seward the result of his analysis. He received His Highness as usual, and was very much struck in the course of their conversation at His Highness describing to him the very symptoms under which he was then suffering. The Gaekwar said there was a great deal of sickness about, and he said that he himself was suffering in very much the same way. Colonel Phayre did not say anything to His Highness at the time. Perhaps he had not then any suspicion or at any rate any definite idea, that he was being poisoned. If Damodhur Punt speaks the truth, His Highness perfectly well knew at that time what had been done because he picked up the Punt on his way and had some conversation with him. It will strike the Commissioners, also that such an attempt as this was a fact which would soon get wind in the town. It could not remain long hid. It is curious therefore, that it was not until the following Thursday when he paid his formal visit to the Resident that His Highness alluded to the rumour. On the occasion of that visit the Gaekwar was accompanied by his then Dewan, Mr Dadabhooy. Now 10 ce. It was a formal audience, and a Durbar *yad* was sent stating that His Highness had learned that some bad man had attempted to poison Colonel Phayre and that he would give every assistance to discover and punish him. The only comment I make upon that letter is that it is a curious circumstance coming so late. I think I have now gone through the main points in the evidence which I propose to lay before the Commissioners. I do not at present propose to do more than make this brief recapitulation. After the witnesses have been heard and have been subjected to the cross examination of my learned friend I think I shall be allowed with the sanction of your Lordship the President to comment upon the evidence, or if witnesses be called for the defence, to reply on the whole case. I intend, therefore, now to occupy no more time but to at once call witness-es.

Before any witnesses were called, the Advocate General asked if it would be necessary to translate the evidence of the witnesses into any other language besides English and Hindustanee. Nearly all the witnesses, he said, spoke Hindustanee.

Sergeant Ballantine intimated that there was no desire whatever on the part of His Highness to have the evidence translated into any other language besides Hindustanee and English.

The President said it would be sufficient if the evidence of those witnesses who spoke Hindustanee was translated into English, and that of the others into English and Hindustanee.

THE AYAH'S EXAMINATION.

Ameena was then called and examined by Mr. Inverarity, (Mr. Flynn interpreting in Hindustanee.)

She said My name is Ameena. I remember the time when the Baroda Commission of Inquiry was sitting. At that time I was in the service of Mrs Phayre, the wife of the Resident, as ayah. I continued in Mrs Phayre's service till she went to England. I then entered the service of Mrs Boevey as ayah. Mrs Boevey is the daughter of Mrs Phayre and lived at the Residency. I continued in Mrs Boevey's service until the time when Colonel Phayre went to Bombay. I knew Mulharao Gaekwar Once, while I was in the service of Mrs Phayre, I went to the *havalee*, or palace of the Maharajah. When I was in the service of Mrs Boevey, I went to the *havalee* on two occasions. I had not been long in Baroda at that time, but I believe I went to the old *havalee*. On all three occasions I went to what I believe was the old *havalee*. I don't exactly remember at what o'clock I made my first visit to the *havalee*, but I believe it was about half past nine or ten o'clock. It was at the time when the *lunch* was about to end. At that time I was living at the Residency, I went to the *havalee* from the Residency, along with Iyloo, the *chowkidar*. We went on foot as far as the well. The well is at some distance from the Residency close to the school, which is on the road to the city. From there I and Iyloo went to the *havalee* in a gharry which was at the well. Iyloo was a fellow-servant of mine at the Residency. He had been employed some time before me. I had been newly employed at that time. That man (points him out) is Iyloo of whom I have spoken. When I got to the *havalee* the gharry wallah drove up to some door or gate way, and stopped. After the gharry stopped Salim came up. Salim I, and Iyloo then went to the *havalee*. I don't remember how far from the *havalee* the gharry stopped but I believe it was 100 or 150 paces. Salim used to come with the Maharajah twice a week to the Residency. We walked from where the gharry had stopped to the *havalee*. When we got to the *havalee* we went into it and went upstairs. Salim then desired me to stand a little while, and he went away saying he would inform the Maharajah of my arrival. Salim returned along with the Maharajah. When Salim went away he left me at the top of the stairs, where there is a small place for sitting like a room.

Mr Melville said he thought it would be well to find exactly what sort of a place it was. He did not think the witness understood the question.

Mr Flynn said that the word the witness had used was "room".

Mr Melville Ask her if there was a door to it?

The witness I don't remember.

Mr Inverarity Is this little room at the top of the stairs or have you to walk a short distance to it?

Sergeant Ballantine objected to the question as being too leading.

The President That is rather a leading question.

Mr Inverarity When she got to the top of the stairs where did she find herself?

Witness I was shown into that small place I have spoken of, and I and Salim were told to stand there while Salim went to inform the Maharajah. Salim returned with the Maharajah. When the Maharajah came he sat on a bench, and I and Iyloo sat down on the floor and Salim remained standing. The Maharajah then asked me whether I had heard the *madam sahib* saying anything about the Commission. I said, "I know nothing and have heard nothing." The Maharajah then said, "Do you say something to the *madam sahib* on my behalf?" I said, "I cannot explain anything." The Maharajah then said, "Should the *madam sahib* say anything at any time inform me through Salim or through Yeshuntrao. This is all that took place as regards

me on this occasion. Then something occurred with respect to Fyzoo. Fyzoo said something about his son, who was then in the service of the Maharajah. I did not take particular notice of what he said. I don't know how long I and Fyzoo remained in the little room I have spoken of, but I believe it was half an hour. Yeshwantrao is *jassoo*, and used to accompany the Maharajah when he came twice a week to the Residency.

Mr. Melville said that a *jassoo* was generally supposed to be a spy.

Mr. Flynn explained that in this part of the country the word commonly meant a messenger.

The witness continued. When I left the *havalee* Fyzoo, Salim, and I returned to where the gharry was standing. Fyzoo and I got into it and went home. The gharry stopped at the place where we first got into it. My next visit to the Maharajah was made after the Maharajah returned from Nowsaree.

The Advocate, General. To save trouble the learned Sergeant and I agree to take the time the Maharajah was at Nowsaree from the 2nd of April to the 16th of May 1874.

The witness continued. In the month of June, after the Maharajah had returned from Nowsaree, I again went to the *havalee*. I went on this occasion because Salim and Curreem Naik asked me to go. Curreem Naik is a peon serving under Mr. Boevev. At that time Mr. and Mrs. Boevev were residing at the Residency. Mr. Boevev was then Assistant to the Resident Colonel Phayre. Curreem Naik accompanied me to the *havalee* on this occasion. We went on foot as far as a place near the school, and here we got into a gharry. I don't remember the exact time, but I believe it was a quarter or half-past eight o'clock. The driver of the carriage went and called Salim. Salim came, and then he and Curreem and I got into the gharry. We went close to the *havalee*. It was raining at the time. Salim joined us somewhere near his house, that is in the town. When we three arrived at the *havalee* we all alighted from the carriage and went upstairs. We went up one flight of stairs, and Salim desired me and Curreem to remain there. (Witness corrects herself) We went up two flights of stairs. Salim said he would go and inform the Maharajah of our arrival. The Maharajah came and sat on the same bench on which he had sat the previous time. When the Maharajah came we were asked to go upstairs, and we went up another flight of stairs.

The President. I don't think she understands the question.

Witness (on the question being repeated). We went up a few steps to where the Maharajah was sitting. I and Curreem went and sat opposite to where the Maharajah was seated on the bench. Salim stood. The Maharajah asked me whether the *ma leme sahib* had said anything about the marriage which took place at Nowsaree. I said to the Maharajah that I had heard nothing about it. I further said that Mrs. Phayre had left England. I said, "When she returns from England something good will happen for you. She is favourably disposed towards you and so is Colonel Phayre." Then the Maharajah said to Curreem and me, "Say something in my favour to Mr. Boevev." I said, "Mr. Boevev will not attend to anything which any one may say." Curreem Naik also said that he could do nothing. I then salamed to the Maharajah and was about to go downstairs. I then heard the Maharajah say to Salim, "Do you give them a sum?" I understood that in reference to the wedding. Then after that Salim, I and Curreem went downstairs to where the gharry was standing. I heard Salim say to Curreem, "Do you go to-morrow to Yeshwantrao's house in the evening?" After that we got into the gharry and went home. On the evening of the following day Curreem Naik told me that he had brought £200 from Yeshwantrao's house, where the

money had been given to him by Salim. During the morning of the following day Curreem paid me £100 and kept £100 himself.

The Court here adjourned for tiffin.

When the Court resumed its sitting after tiffin, His Highness Mulbarao did not return, but was absent during the rest of the day.

The witness Amena, in continuation of her former evidence, said "The third time I went to the *havalee* was in the month of Ramzan. Salim asked me to go. He came and told me the Maharajah wanted me urgently to come to him. On that occasion no one went with me but a boy named Chotoo I and my husband and Chotoo went. My husband went to the bazaar to get a gharry. We got a gharry and I and Chotoo got into it near Dadaboo's shop. My husband's name is Shaik Abdoola I and Chotoo first drove to a place called Arabkhana, or Arab's house, near the *havalee*. Salim had appointed the place where we were to go. When we got to the Arabkhana the driver of the gharry called out to Salim. Salim came, and I and Salim entered the *havalee* and I went upstairs. Chotoo remained in the gharry. Salim and I went to the same place where we had sat on the previous occasions. When we got there Salim called out to the Maharajah and the Maharajah came and sat on the same bench on which he had sat before.

Before proceeding further the witness said "As I eat the salt of the English Government I am going to tell you the whole of what occurred. I will not suppress anything."

Examination continued. The Maharajah first asked me this, "Has the *madame sahib* (Mrs. Boevev) been saying anything about the child?" I said, "The *madame sahib* said nothing nor have I heard anything." I then said, "When the *bura madame sahib* (Mrs. Phayre) comes then something good will occur to you. She and Colonel Phayre both wish you well." I also said, "When the *madame sahib* comes back something good will happen to you. Do you attend to what the *saib* says, don't be afraid." Salim then said "Can a charm be used?"

Sergeant Ballantine asked to hear the word used by the witness for "charm".

Mr. Flynn said the word was "choocha."

I witness. It was Salim who first spoke about the charm. He said "Should a charm be used, will the *saib* heart be turned?" I did not understand what he meant. I then said to Salim as well as to the Maharajah, "Don't you use *paddoo* on the *saib*, for it will have no effect on a *saib*. The reason I gave for that was that *saib* *logue* trusted in God. Salim then said to me, "Should anything be given to a *saib*, what do you think the effect would be?" At that time I felt very much alarmed at hearing this, because before that I heard something stated by two persons. I then said to the Maharajah "I am going away." I don't see the Maharajah here now but were he here he would probably corroborate what I say. (Laughter) There Salim addressed me said "Do you hearken to what the Maharajah will do? and you will have enough till the end of your life." Salim also said, "Your husband will also get employment, and you will not have to starve any more." I said in reply to Salim, "I have not been starving all this time back. I have passed all my life up to the time in serving the English." Just then, as I was about to go away I said to the Maharajah, "Don't you listen to what anybody may tell you to do to the *saib*, for if anything injurious should happen to the *saib* you will be ruined." Then it appeared to me that the Maharajah got angry at this, because he said to Salim "Take the *ayah* away." I and Salim then went downstairs to the place where the gharry had stopped. I and Chotoo then went home. I next saw Salim when he came with the Maharajah to the Residency. He came to me on that occasion and said, "I have placed £50 in your cot." My cot was in my room. I was not in my room then. I was at the bungalow. My room was in the Res-

dency compound near the kitchen. I went to my room, and under my bed I found Rs. 50. When I made these three visits to the Maharajah my husband was not living with me. On the first occasion he was in Bombay, on the second occasion he was in the service of Major Blakenev at Baroda, and on the third occasion he was living with me in my house. By my house I mean my room in the Residency. I told my husband that had been at the *harem* on two occasions. I told him of the first occasion, and of the occasion on which the Gaekwar had returned from Nowsaree. As to the third occasion I do not remember whether my husband was at Mahableshwar or here that time. When I and my husband were living apart we used to correspond with each other. The first letter was written when I went to Bombay. I could not recognise that letter if I saw it, I cannot read. I went to Bombay at the time when Mrs. Phayre went to England. I got a man called Syed Abdool Rahim to write the letter. I call him Rahim *sahib*. I can neither read nor write. I got the second also written when I was in Bombay when Mrs. Phayre went home. I don't remember whether my husband sent me any letter or not.

Mr. Inverarity Do you remember making a statement to Mr. Souter?

The witness Yes, I do.

Mr. Inverarity At that time what state of health were you in?

The witness I was very ill at that time. Dr. Seward knows what was the state of my health then. He put a blister on my stomach and leeches me.

THE AYAH'S CROSS-EXAMINATION.

Cross-examined by Serjeant Ballantine —

Q What did you do with the #50 you found under your bed?

A I spent them during the month of Ramzan. I gave some money to religious mendicants and I gave the mendicants a feast.

Q Was your husband living with you at the time?

A Yes, he was.

Q Did he know of these rupees?

A Yes, he did, but I had possession of them, and I spent them.

Q Did you tell your husband that you found them in the bedding?

A Yes.

The witness here began to cry, and producing a bundle of testimonials, said "You don't suppose I am telling lies? I have been five times to England". (Laughter).

Q Did you tell your husband why this present was made to you of Rs 100?

A I told my husband that Curreem Naik had said it was a present given to me on the occasion of the marriage.

Q Then you did not tell your husband that it was an inducement to poison Colonel Phayre?

A There was never anything said about poison.

Q But did you not understand that there was a suggestion that Colonel Phayre should be poisoned?

A No, I did not understand anything of the kind.

Q Not at the third interview?

A I had some apprehension in my own mind from what I had heard from those two persons.

Q At the time these two men spoke to you, did you not think it was a suggestion to poison Colonel Phayre?

A I understood from what those two men said to me that something was going to be done about poisoning Colonel Phayre, and I was much alarmed at that.

Q Why did you not tell your husband that?

A How could I tell my husband, I didn't know if it was true or not. It was merely the talk of the bazaar.

Serjeant Ballantine. Now, don't tell me about bazaar

gossip, but what you yourself thought from what they said.

Witness When the Maharajah spoke to me on the third occasion I remembered what these two men had said to me, but the Maharajah did not say anything about poisoning.

Q Did you believe on this third occasion that the Maharajah and Salim were suggesting that you should assist in poisoning Colonel Phayre?

A Something of that kind occurred to me at the time, and I was very much alarmed.

Q Then as something of that kind occurred to you at the time and you were very much alarmed, why did you not tell your husband?

A My husband was not at that time in the service of the Residency, but I did tell him that something should be given to the *sahib* to turn his heart. But nothing was said about poisoning, I swear that.

Q Did you believe that what the Maharajah said was with a view to turning Colonel Phayre's heart, or to poisoning?

A I understood that poisoning was intended, and that was the conclusion I came to in consequence of hearing what Pedro and Rowjee had said.

Q Was it from what these two men had told you, or was it from anything the Maharajah and Salim had said at the third interview?

A It was in consequence of what these two men had previously told me that this occurred to me.

Q Then if these two men had told you nothing, would it have occurred to you that the Maharajah intended you to poison Colonel Phayre?

A I should not have understood that the Maharajah intended that poison should be used.

Q When did you hear anything about poison from these two men, Pedro and Rowjee?

A These two men were great favourites with the Maharajah.

Q When did you hear anything from them about poison?

A Pedro and Rowjee were not the persons who told me of this, they were two other persons.

Q Why did you tell me it was Pedro and Rowjee?

A I was not thinking of what I was saying at the time. Serjeant Ballantine to Interpreter Ask her whether she is quite well now, or whether she is under the care of any doctor.

Witness I am not quite well yet, my arms and legs are swollen.

Q If it was not Rowjee and Pedro, who was it?

A Curreem Naik and the *Cazee* of the Chand *wary* were the persons.

Q When did they tell you?

A About a month before that third interview with the Maharajah. But they did not mention the name of the *sahib*.

Q How did you think they meant the *sahib*?

A It struck me that Colonel Phayre was intended.

Q Did you tell either your mistress or the Colonel of what you believe was intended?

A How could I tell them without any grounds for doing so?

Q Did you tell them? was the question I asked you?

A I did not.

Q Did not it occur to you that your master might get poisoned, and you might save him by telling him?

A I did not think any one in our bungalow would poison

Q Had you no other reason for not telling him?

A I swear I had no other reason but that.

Q What made you think of Pedro and Rowjee?

A Those persons from whom I had information told me that Pedro and Rowjee were much in favour with the Maharajah, but I didn't think Pedro and Rowjee would make the attempt.

THE SCENE IN THE CUTCHERRY.

(FROM AN OCCASIONAL CORRESPONDENT)

BARODA, FEB 24

Q What had Pedro and Rowjee being greatly in favour with the Gaekwar to do with the poisoning of Colonel Phayre?

A I was not aware that such things as these took place in the territories of native princes. I never heard of such occurrence before.

Q Was that the reason you did not mention it to your master or mistress?

A Yes, I didn't think that such a thing could happen to *sahib*.

Q But you told us that you were very much frightened at what the Maharaja and Salim had said to you. Were you very much frightened?

A I always much frightened.

Q What frightened you?

A I felt afraid in consequence of what I heard from these two men whom I have mentioned.

Q And did you believe what you had heard from these two men?

A I had no ground on which I could say it was true. I thought it was mere bazaar gossip.

A If you thought it was mere bazaar gossip, what frightened you?

A I felt frightened before the Maharajah on that occasion. I thought if I were to mention it I would be killed outright.

Q Who do you think would kill you?

A I being a woman was very much frightened at the time. I didn't think who would kill me.

Q If you were very much frightened and thought you might be killed why did you not tell your master?

A How could I state this to him? I did not think anyone in the bungalow could do such a thing.

Q You told your husband did you not, about this suggestion of poisoning?

A I said to him that I thought something might be done.

Q To poison Colonel Phayre?

A I did tell him this, but it occurred to me that no one in the bungalow would do such a thing.

Q When did you tell your husband this how soon after your first visit to the Maharajah?

A I do not remember how long after the third visit.

Sergeant Ballantine to Interpreter Tell her she must try to remember.

Witness I didn't mention poisoning at all to my husband and I said that something might be given. I don't remember whether I mentioned to him about poison.

O Sir, and recollect if you told him about poison.

A I do not remember whether or not I said anything about poison to my husband.

Q When did you tell your husband on the subject of your interview?

A I mentioned that it had been said to me that some thing might be given to the *sahib* to turn his heart, in order that the *sahib* might be induced to do some good to the Maharajah.

Q When was it you told your husband this how long after the third interview?

A On the day following the day on which I had the third interview I said nothing during the night before about it.

It was now half-past four o'clock and the learned Sergeant stated that in the next part of the cross examination which would occupy a considerable time he would have to mention names of persons which it was desirable not to mention till the cross examination of the witness could be brought to a close, he therefore asked that the case should be adjourned.

The Court was accordingly adjourned till this morning at eleven o'clock.

The building in which the trial of the Gaekwar is to be held was formerly the kutcherry of the Cantonment Magistrate; it however has been enlarged, and adapted as well as the circumstances will admit to afford accommodation for the members of the Commission, the Council and attorneys, and about a hundred spectators. Ten seats are reserved for ladies. Over the head of the members of the Commission and of the gentle men of the bar pump has haveli hung but there are no such luxuries in the body of the Court, so that the heat experienced by the spectators will be something intense. The Court is about 70 feet long and 25 feet broad the east end of it is raised to form a dais for Chief Justice Couch and his colleagues. Immediately below the dais is the space allotted for the members of the Bar and further removed from the dais is where the reporters sit. The body of the Court yesterday was filled with natives, chiefly young Parsees and Bummers of the Oomidwar type. Farthest removed from the dais is a gallery, which in the morning was filled with the officers of the station, but for the afternoon sitting the natives had taken possession of it while the officers were at their

At 10.30 a.m. the booming of cannon and the sound of a military band playing the salute announced the fact that the members of the Commission had left the Residency. They proceeded to the Court House, but did not enter it at once. Mulharao Scindia retired for a short time to have a few whiffs of his hookah. At 10.45 Mulharao Gaekwar, accompanied by Sir Lewis Polly entered the Court. The seat reserved for the Gaekwar was to the left of the dais, and Sir Lewis Polly placed himself at a desk to the right. About twenty minutes after the entry of the Gaekwar, the members of the Commission made their appearance, headed by Sir Richard Couch, who, of course, occupied the centre position of the dais, laying on his right Maharajah Scindia, and on his left the Maharajah of Japore.

The proceedings were opened by Mr John Jardine, the Secretary to the Commission, who read out the Viceregal order constituting the Commission. Mr Flynn, the interpreter, followed with the translations. In the Maithili translation he made one unfortunate mistake. He called the Order of the Star of India, the "most excellent" instead of the "most exalted" order. As to the Hindustani translation, the frequent repetition of the words 'he wrote induced a young military officer to express the hope that the venerable Mr. He waste would speedily make an end of his work.'

and by the name of Mr 'Ke waste' the excellent translator is now known throughout the Camp

Maharajah Scindia looks every inch an Eastern prince, the jewels upon him must have excited the envy of the ladies, who, situated as they were perched up in two rows near to the witness box, looked like a panel of charming jurywomen called together to appraise His Highness's diamonds and pearls

The Maharaja of Jeypore, renowned for his enlightened policy and his excellent administration of the affairs of his kingdom, looked less princely than Scindia, but infinitely more wise, his look of wisdom being considerably enhanced by a portentous pair of gold spectacles. Who would think that so grave a character ever indulged in the light fantastic at a public ball? On the right of the dais sits Sir Dinkur Rao, clothed in white from head to knee. The gravity of his character, his Brahminical purity of life and singleness of purpose, well befit him for the honourable position he now holds as an arbiter in the fortunes of a prince.

After the reading of the Commission, Sergeant Ballantine drew the attention of the Court to the fact that the prosecution had provided it self with short hand writers and printing presses, to prevent any mistake being made by the short hand writers, and its being passed by unnoticed, the defence had also provided short hand writers for the purposes of checking any such mistakes should they arise. Some other remarks were now made by the learned Sergeant, which, owing to the low tone in which they were uttered, and the noise made by a batch of noisy messengers could not be heard by your correspondent.

Now came the first witness, Ameena by name. My first thought when I heard such a pretty name was of some light of the harem, some houri from the paradise of Mahomed, but, alas, "Ameena," although her eyes are as black as sloes, and her hair like the raven's wing, does not quite come up to my expectations. Ameena is certainly not young, and I am sure she smokes a "bubble bubble," she complains of swellings in her—well—understandings, a good and learned physician has applied plasters and leeches to her, she has already been five times to "Belair," and has a whole pocket full of "chits." Oh, Ameena, you have dashed the cup of poetry from my lips, so au revoir.

SECOND DAY.

BARODA, FEB. 25, 1875.

YESTERDAY the Commission resumed its sitting. All the members were present.

The Court was even more crowded than on the first day, and the weather being warmer, the heat became quite oppressive during the afternoon. His Highness

Mulharao was conducted to his seat by Sir Lewis Pelly at 11 o'clock, about ten minutes before the Members of the Commission arrived. The Maharajah Scindia was dressed in white and wore a yellow turban. The rest of the Commissioners were dressed as on the previous occasion. The continuation of the ayah's cross-examination first occupied the attention of the Court. The chief incident was the statement by Ameena that the Khan Bahadoor and his son had threatened her to induce her to speak to an important point. She instantly denied that she had been threatened, and even went so far as to deny she had said she had been threatened. This created some amusement. A point that Ameena made in her passage of arms with the Sergeant was the display of copious geographical information which she placed at his disposal when he asked her why she was reluctant to go to the Gaekwar's palace on the first occasion. She did not know Baroda much, she said, tearfully, but she had been to England, Cawnpore, Neemuch, Jubulpore, Simla Hills, and a variety of places, reaching Arabia before Sergeant Ballantine succeeded in stopping her. She evidently felt that in matters of travel she was fully equal to her formidable interlocutor, who, however, brought her back to Baroda in spite of herself. An allusion of Ameena's to Mr Forgett seemed to escape Sergeant Ballantine's attention. She knew Akbar Ali, she said, in Mr Forgett's time. It would have been interesting to know what were her early relations with the Khan Bahadoor of Detectives, and why she still remembers the honoured name of Mr Commissioner of Police Forgett. Kyooz, the next witness, possessed a handsome black beard, and was on the whole a good looking fellow. He deposed to one of the interviews between the ayah and the Gaekwar but not that at which charms were spoken of according to Ameena. An honest gharry walla deposed with great simplicity to his gharry being hired by the previous witness to take them to the palace, and to his being duly arrested and kept in confinement therefor by the Sircar. When the sergeant asked him why he was arrested, he replied "to prevent him from speaking with anybody," and he added that the sircar, no doubt, would liberate him when all was over. The thought of ill treatment seemed to be quite foreign to his mind. "The sircar wished to keep him in confinement, and how could he resist the sircar?" In his imprisonment he seemed to have forgotten an important matter connected with his home, viz., that he was possessed of a wife. When asked whether he was married he replied that he was not, but then stirring his memory, he recalled the fact and exclaimed "Oh! yes I am," with an air of sudden recollection which highly diverted the Court. Shaik Cureem was the next witness, and he also deposed to being present at one of the interviews between the ayah and the Maharajah, but unfortunately it turned out that the conversation which yesterday he deposed to having heard, he once informed Mr. Souter was carried on "privately and apart," so that, presumably, he could not hear it. Not a word of the conversation appeared in his deposition taken down by Mr Souter, but that did not prevent the recollective Cureem from stating that Mr Souter not only wrote down all about it, but read it out to him, and he passed it as correct.

Thus it will be seen that during the first two days of the enquiry four witnesses have been examined, one of whom at least was one whose evidence was held to be of considerable importance. Three out of these four contradicted themselves more or less, and on some points it may be held that they contradicted each other, but what importance, if any, is to be attached to that fact it is for the Commission and not for us to determine. The general impression in the Court seemed to be that the fact of the ayah's interview with the Gaekwar was pretty well established, but whether the interviews took place for any more sinister purpose than the "sumjaoing" Mrs Phayre is not yet very evident.

His Highness the Gaekwar who remained in Court until the adjournment for tiffin, was apparently much less nervous than the previous day.

THE AYAH'S CROSS EXAMINATION—Continued

The cross-examination of Ameena the ayah was continued by Sergeant Ballantine—

Do you remember the day when the poison was said to have been put into your master's glass?—I do not remember the day.

Do you remember the circumstances?—I mean to say that I know nothing about it. It was asserted something of that kind had been done.

Did you hear that at the time?—Some time after Mr Melvill she said "I heard it after The Advocate-General I did not hear her say "afterwards".

Sergeant Ballantine It makes all the difference
[Answer repeated]

The Interpreter The answer is "I heard it afterwards."

Sergeant Ballantine Were you living at the Residency at the time?—I was living there at the time.

Come, then you must remember it. You remember it perfectly well, do you not?—I heard of it afterwards.

Did you mention to anybody when you heard of this that you have told us about the poisoning?—No, I did not mention it. To whom could I mention it?

Why, if you heard that there had been an attempt to poison your master, did you not mention what you had heard previously about the intention to poison him?—The enquiry was in regard to the poisoning not in regard to my coming and going.

Is that the reason you did not say anything about what had been said to you?—Yes, for that reason, and whose name could I mention?

Did you know that your husband was examined by Colonel Phayre upon the subject?—Yes, I was aware of that.

Why did you not tell your husband, so that he might have mentioned it on his examination?—How could I mention it? Whose name was I to mention?

Did I understand you rightly yesterday that you never mentioned anything about poisoning to your husband?—I do not remember whether I mentioned it or not.

Have you seen your husband since you were examined yesterday?—No, I was cautioned not to have any communication with my husband.

Who cautioned you?—The Bahadoor.

Have you had any communication with any police since yesterday?—None I was not allowed communication with any one I am telling the truth.

Do you adhere to what you stated yesterday that your belief about the poisoning arose from what was told you by the two men the Cazee and Cureem and from what occurred at the Maharajah's?—I adhere to that still I do not want to alter that statement.

Just attend Is it true, then, that on your third interview with the Gaekwar you understood him to ask you whether you would consent to administer poison to Colonel Phayre?—He did not say anything of that kind to me. I have stated exactly what I know.

Then it cannot be true that you indignantly refused the Maharajah?—It was true that I told the Maharajah that he should not do anything to cause injury to the Sahib, or he would be ruined.

What injury did you mean?—I have stated what he said.

Very well Where did you first make a statement to anybody upon the subject of your interviews with the Maharajah?—When the Khan Bahadoor came and Mr Souter came an enquiry was set on foot with regard to this going and coming I stated what had occurred.

When was that? Was it about December, 18th when you visited the Maharajah?—It was after Mr Souter arrived from Bombay that I mentioned it I was very sick at the time.

[The learned Sergeant here said that he was informed by his friend (the Advocate General) that it was December 18 when Mr Souter arrived.]

Do you remember if the statement you made to Mr Souter was taken down?—It was not taken down when I made the statement the first day.

Who were present on the first day when you made the statement and it was not taken down?—The Khan Bahadoor was present, the driver of a gharry, and a lad.

Not Mr Souter?—No

I did not hear the name of the other person exactly. Was it Akbar Ali?—(The interpreter explained that it was, but that she had spoken of him by his title, not by his name.)

Was it the father or the son?—I do not know, but I have known him since the time of Mr Forgett I have seen him in Bombay.

[Akbar Ali was here produced in Court.]

Is that the gentleman to whom you allude?—Yes.

(To Akbar Ali) I will not trouble you to keep in this hot Court any longer (laughter)

(To Witness) How long was that before you made a statement to Mr Souter?—I think two days.

The learned Sergeant here said I am informed by those who understand the language that she said something about being imprisoned. If I might be allowed to say so, I wish the interpreter would give us the entire answer. You (to the interpreter) will excuse me, I am sure, but our difficulties are very great—(The interpreter explained that he gave her answer to the question first, and was about to give her subsequent observation)—

Sergeant Ballantine Well, what did she say?

Answer I was kept in confinement.

Were you kept in confinement before you made the statement to Akbar Ali?—Before I made that

statement on that same day I was placed in confinement.

Do you mean you were taken into custody that same day or before?—(The interpreter asked for another expression to "taken into custody," as it would be difficult to translate.)

Very well Were you imprisoned any days before or made this statement to Akbar Ali?—I had not been confined before that.

Mr Melvill The point of the question has not been realised Your point is at the time she made the statement was she in confinement or not That point has not been got out ask her whether she was confined before or after she made her statement

Witness in reply I told Akbar Ali that I could not make my statement That was on the first time I saw him as I was too ill, but that when I recovered a little I would tell what I had to say

Sergeant Ballantine Now we are getting further off than ever

Witness And it was on that day I was placed in confinement I am quite sure of that

Mr Melvill We are no nearer than before

Sergeant Ballantine (to interpreter) Kindly follow me Ask her when Akbar Ali spoke to you were you or were you not in confinement? That is a plain question—I first said to Akbar Ali that I was then very sick, and that when I recovered I would make a statement to him

Sergeant Ballantine I just want this When you first spoke to Akbar Ali were you in confinement, or did he put you in confinement when you told him you were too ill to make any statement?—I was not then in confinement I was very sick I was at liberty in my own house

Mr Melvill I do not think she understands the question Ask her if after she told him she was sick she was in confinement or not

Sergeant Ballantine What I want her to tell me is whether when Akbar Ali spoke to her on this subject was she in confinement or was she free?—I was lying on my cot at the time so ill that I could not go anywhere

Were you or were you not in confinement when you spoke to him?—When Akbar Ali came to me and spoke to me and when I made that statement which I have just spoken of, he told me I must not leave the place and he said you must not go anywhere

Sir Richard Meade Her answer has clearly shown she was not in confinement, as she was ill

Sergeant Ballantine Were you allowed to remain in your house or were you taken to prison?—I was confined in my room and was not allowed to go anywhere, and my husband was not allowed to come near me. About two days afterwards I was taken to the hospital.

How soon after that did you make your statement to Akbar Ali?—I made a statement to him on the first day It was to the effect that I would tell everything Subsequently I was taken to Mr Souter

You told Akbar Ali that you were too ill to make a statement then, did you not?—Yes, I did

After that you were confined in your own house?—I do not know what occurred exactly after that. I believe I was taken to another room. I was very sick indeed.

How soon after that did you make a statement to Akbar Ali of what occurred at the Maharajah's?—Afterwards all the people came to take my statement

Did you make any statement to Akbar Ali before you made one to Mr Souter?—I merely stated what I have already said, but being ill I could not make a lengthy statement

You spoke of an interview with Akbar Ali in the presence of a boy, and a gharry driver, is that true?—That is quite true

Well now wait a moment Did you give an account of the three interviews?—No I did not make a long statement at that time I did not tell all

Why did you not?—Because I was very sick at that time You may ask Dr Seward as to my state of health

How long after that was it you saw Mr Souter?—I tell you from memory about two days

Where were you then?—I was in another room to which I had been taken There were sepoys present

A room in your own house?—It was a room in Mr Boevey's bungalow

Who were present?—There were sepoys present Akbar Ali and his son Abdool Ali

How many sepoys?—I do not remember I was sick at the time

Did Mr Souter take down your statement in writing?—Yes he did take down what I said in writing

Did he tell you you were to tell him everything you knew?—Yes he did say that Afterwards I made a further statement of something I had forgotten

Yes I know about that We will get to that presently Did Mr Souter ask you if you knew anything about the poisoning?—Yes Mr Souter did ask me, and I said I knew nothing about the poisoning After that I saw Mr Souter and told him everything I knew

When Mr Souter asked you if you knew anything about the poisoning, what did you say?—I told him that I knew nothing

Did Mr Souter ask you whether the Maharajah had said anything about poisoning?—Yes Mr Souter did ask me and I said I knew nothing about it, that I had stated everything I knew

Now just tell me this did either Akbar Ali or his son Abdool Ali say that the Maharajah must have told something to you about it?—Yes, they threatened me and they said if anything of the kind was said I should state it and I said I have told all I know

Did Mr Souter hear them threaten you?—No, I was not threatened No one threatened me I stated of my own accord all that occurred

What made you say just now you were threatened?—No I did not say that They said to me that the Maharajah must have said something to me about poisoning and I said he did not

(Sergeant Ballantine here asked that the short-hand writer should read the answer which the witness gave in regard to the threatening The short hand writer for the prosecution accordingly read the answer referred to, which agreed with the notes of the President.)

Sergeant Ballantine continued Now, why did you say that Akbar Ali and Abdool Ali threatened you? Is it true or is it false?—It is not true They did not threaten me I do not think I said that, I might have said it I said I think they asked me.

Just tell me who is taking care of you now, who are you with now?—I am now in confinement

In charge of Akbar Ali and Abdool Ali?—Yes, in their charge, and of sepoys or policemen.

After you had made this statement, did Mr Souter read it over to you?—No, he did not read my statement.

Did anybody else come to you?—No one came to me. I am in confinement.

Did you make another statement to Mr Souter after this interview?—No, not to Mr Souter, but I made a statement to a vakeel or perhaps he was a barrister. I do not know the difference between one and the other.

Did you make another statement to Mr Souter?—Yes, at the hospital, where I stated the whole truth. I never tell a lie. I consider this like the house of God, where the sessions have been held.

When was it you made this last statement to Mr Souter?—It was after I was sent over to the hospital.

[It was here agreed by the learned bench and the Advocate General to accept the 21st December as the date upon which the statement was made]

Did Mr. Souter come to you to the hospital?—I sent for Mr. Souter, and he came to me in order that I might tell him whatever I knew.

Whom did you send?—I do not remember now, but I spoke about it to Dr. Seward or to somebody else.

But you did not send Dr. Seward for Mr. Souter? Now whom did you send?—I mentioned it to somebody, but I do not remember now whom it was.

Was it Akbar Ali or Abdool Ali?—No, I was then under a guard of sepoys, and no one was allowed to come near me.

There are just a few more questions I intend to ask. How is it you happened to go to the Maharajah on the first occasion?—As for Baroda, I do not know much about it. I had never seen it before nor do I know much about it now. I have seen England, Cawnpore, Jubbulpore, and other places.—(crying)—I have been to the Simla Hills and Arabia.

I am sure they have lost a great deal by your absence, and if you will only answer a few questions properly you may see those places again for what we care. I am not now asking about the Simla Hills, but I want to know how it was you went to see the Gaekwar on the first occasion?—Salim and Fywoo were after me for about two months. They asked me from time to time to go to the Maharajah to pay my respects to him and to make my *salaam*.

Why did you not go?—I did not go, because I did not know how to go.

Well, if they wanted you to go, they would have taken you and shown you the way?—Fywoo and Salim said "don't you fear." Salim said I could accompany Fywoo.

Why were you unwilling to go?—Because I had never been to a Maharajah.

Is that the only reason?—Yes, I had never been to Baroda before that.

Do you know Damodhur Punt?—I do not know Damodhur Punt. I don't know anybody.

Do you know whom I mean by Damodhur Punt?—I don't know him. I never saw him.

Is it the truth that you were persuaded much against your will by Fywoo Ramjan to visit the Maharajah? That is true.

THE AYAH'S RE-EXAMINATION.

The Advocate General then re-examined Ameena. He said You say that you made a statement to a vakeel or barrister. Look at this gentleman (intimating Mr. Cleveland) is this the vakeel to whom you made the statement?—Yes.

While you were in the hospital did you see either of the Alis, either father or son?—They all came on the day Mr. Souter was sent for.

From the time you made the first statement to Mr. Souter at the hospital up to the time you left the hospital, did you see either Akbar Ali or Abdool Ali?—I did not see anybody in the interval.

I did not ask that did you see either of the Alis?—No, I have not seen them.

During that interval did you have communication with any police officer?—No, I was under a guard. I could not do anything.

What hospital was it you were in?—The regimental hospital.

Who was the doctor in charge of you?—The doctor of the regiment—I do not know his name—but Dr. Seward also came to see me.

Now you say that Khan Bahadur came to you with a gharrywalla?—Yes, that was so.

Was that the first time you saw Khan Bahadur about this matter?—Yes, that was the first time.

At that time where were you?—I was on my cot in my room. I was sick.

How many days had you been sick at that time?—For about four or five days before I was suffering from fever and I had liver complaint.

During that four or five days had you been lying sick in your room?—Yes, I was lying sick. It was either four or five days. I do not remember exactly.

Do you know who the gharrywalla was who came with you?—I did not see him before. He came on that occasion with Akbar Ali.

Do you know his name?—Some name like Sabbi or Kobbi. Who was the boy?—Chotoo.

Your own servant?—Yes.

Tell me as nearly as you can what passed between you and Akbar Ali on that occasion?—All that I said was that I was not able then to tell anything. In fact I was afraid when I saw the driver and the boy, and I said I would otherwise tell everything, and that it was true I had gone three times.

You say you were placed in confinement after that. Were you taken to a prison or merely left in a room in your own house?—I was placed in another room in the same bungalow.

What was the sort of confinement you were under? Was it surveillance only, or was it the custody of the police?—I do not know the distinction.

Was there any policeman in your room or outside?—There was a sepoy placed at the door of my room.

And remained there till you were removed to the hospital as you have told us?—Yes; I did not see my husband after that.

You were asked yesterday a good deal about your being frightened at your third visit to the Maharajah, and you connected your fright, I think, with what you had heard from the Casee and Curreem?—Yes that is so.

Were you frightened when you first heard what they

said to you?—I did not exactly understand at that time what was meant.

When did what they said begin to frighten you?—When I went on the third occasion to the Maharajah.

Do you speak English?—A little. I do not understand anything definite.

Were you in the habit of speaking English to your mistress or she to you?—My mistress generally spoke Hindustani; sometimes she spoke English.

On those three occasions on which you visited the palace as mentioned, did you obtain leave from your mistress or not to absent yourself at nights?—On two occasions I obtained leave from Mrs. Boevey to go out.

You have mentioned that you learned first about these things from the Cazee and Cureem: did you also mention this to Mr. Souter?—I did mention it to Mr. Souter.

By the Court: Do you know who was the driver of the gharry in which you went to the Maharajah?—I do not know the driver. It was at night when we went. I do not know his name. Oh, yes, I think I know the name of one. Salim told me his name. It was Sundul.

Have you seen Sundul on any other occasion?—I did not see him in the night time, but I saw him on the day following, when he came to Cureem to ask for the fare of the gharry.

You have told us that you heard about getting the poison. Can you tell us how long before that you went for the third time to the Maharajah?—I do not remember, but it was over twenty days or a month. It was in Ramzan.

Was it near the middle of the month or earlier?—I do not remember. It may have been ten or twenty days before I heard of the attempt to poison Colonel Phayre.

Sir Richard Meade: You went in the month of Ramzan; how many days before you heard of the attempt to poison Colonel Phayre?—I cannot tell how long. I do not remember, and I am sure it was not before I heard of the attempt to poison Colonel Phayre.

FYZOO RAMJAN'S EXAMINATION.

Fyzoo Ramjan was next called and said: I was till lately a chowkeydar employed at the Residency. I was employed there 20 years. I remember the time when the Commission was sitting. I know the ayah who has just given her evidence. During the time the Commission was sitting I accompanied the ayah to the Maharajah one night after 9 o'clock. I went in a gharry. I don't know who the driver was. Salim's sower came and said he would send a gharry. We found the gharry at a place near the school where Salim's man said it would be waiting for us. I and the ayah drove in this gharry to the city. We went to the Chupaneer gate, which is near the new bazaar outside of the city. It is one of the city gates. When we got there I and the ayah alighted, and there we found Salim's sower. We accompanied Salim to the Maharajah. We found the Maharajah in the *havalee* upstairs. The Chupaneer gate is 200 or 250 paces from the *havalee*. We went into the *havalee* by a staircase in the direction of Nuzer Baug. The Nuzer Baug is a garden adjoining the back of the *havalee*. The Nuzer wall runs up to the back of the *havalee*. The front of the *havalee* fronts the public street,

We went into the *havalee* by a staircase at the back. I don't remember whether I went up two or three flights of stairs. On going upstairs I and the ayah sat down, and Salim went to tell the Maharajah of our arrival. In the place where we waited there was a bench, and I saw a large mirror. It was a small room. Just as we got to the top of the stairs we found this place; a sort of sitting-place. This sitting-place was just in front as you get to the top of the stairs. After a little time the Maharajah came. I know it was the Maharajah because I used to see him when he came to the Residency. The Maharajah sat down on the bench, and I salaamed to him. He then said to the ayah, "You don't come to me." She said, "I have no leisure." He said "Do you speak to the *madam sahib* in my favour. You request the *madam sahib* to speak in my favour to the *sahib*, as many persons are making representations." The ayah said that she could not say anything in favour of the Maharajah to the *madam sahib*. If there was anything else she might speak about it or do it. I made a *salam* to the Maharajah and said "I am a servant, and there are persons who are at enmity with me. I am a helpless man." After that a little talk took place, and then I went away. I mean that after this conversation I and the ayah went away. I represented to the Maharajah that my son was in the service of the Maharajah, and therefore the servants at the Residency were at enmity with me.

Mr. Melvill said this was what he thought the witness had meant before when he said the servants were at enmity with him.

FYZOO RAMJAN'S CROSS-EXAMINATION

Cross-examined by Sergeant Ballantine:— My son is a sower in the Maharajah's service. He entered the service in the time of Khunderao Maharajah, about 5 or 6 years ago. My son may be now 16 or 17 years of age. He gets ten Baroda rupees a month. He has received that pay ever since he was employed. I would recognise the driver who took us to the *havalee* if I saw him. That man was not pointed out to me before. He used to come to the camp and I saw him. He was brought before me when I was examined by Mr. Souter and I recognized him. I was examined by Colonel Phayre after the alleged poisoning, and I said I knew nothing about it. I did not say that I had been to see the Maharajah because every one at the Residency bore enmity to me. They bore enmity to me, and accused me of having poisoned Colonel Phayre. That is why I did not tell Colonel Phayre of my visit. I knew nothing about the poisoning, and I was afraid I might be accused. Two days after I was examined by Colonel Phayre I was dismissed. Two days after my statement was taken by Colonel Phayre, I was called and Colonel Phayre took down my name and asked how long I had been in the service. I was also asked who had incited me, or spoken to me.

In the course of any one of these examinations, did Colonel Phayre mention the Maharajah's name?—No; he only asked who had incited me.

Did he ask you if the Maharajah had incited you?—No, he only asked me who had instructed

me to administer the poison. After the last examination by Col. Phayre I remained here in confinement.

Mr. Melvill After he had been accused by his fellow-servants, and was sent for for the last time by Colonel Phayre, what became of him?—I remained here in confinement. I was put into confinement two days after the poisoning matter, and I have been in confinement since then. I am now living in a tent, guarded I am in the custody of Akbar and Abdool Ali. I know Rowjee Rama He was one of the persons who accused me of poisoning Colonel Phayre. All the servants were against me.

Sergeant Ballantine Relate minutely all the circumstances under which you went to see the Maharajah—I went there and have stated how I went there. The sower Salim told me and the ayah that we should come to the Maharajah. I and the ayah were standing at the Residency and Salim came with fruit. He had been to the *sahib* with some fruit, and on his return he told me to come. He said "Do you come?" He had been speaking to me frequently to go. I did not persuade the ayah to go—she is not a child to require anything of that kind. She went of her own accord. I went because the ayah went. That was my only reason. Otherwise I had no business to go. She said "I have been asked to go from time to time for a long time back, let us go." I did not ask her why we should go. I never told any one that I had been to see the Maharajah before the 29th December when I was examined by Mr Souter. I did not know that the ayah was examined before I was. The driver of the gharry was made to stand at one place, and I stood at another place, and the ayah was inside because she was sick. Somebody said to me, "Do you confess that you went to see the Maharajah?"

Mr. Melvill and what he had understood the witness to say was, "The ayah confessed that I had gone with her once, and the gharry walla said I had gone once, so I confessed."

The question was again put by Mr Flynn, and this was found to be the witness's meaning.

Did any one at that time tell you that the ayah had confessed that you had gone to see the Maharajah with her?—I was taken to where the ayah was, and I was placed at one spot and the driver at another. Then I acknowledged that I had gone to the Maharajah on one occasion.

Did the ayah say anything in your presence?—No, she did not say anything to me. As two persons who had gone were there, I admitted that I had gone on one occasion.

Did you know that she had admitted it?—No, I did not know it at that time.

Why did you confess that you had gone simply because you saw the ayah and driver?—As the witness had been found I admitted that I had gone. I have been thirty years in the service of the British Government. I know His Highness Scindia though he does not know me. (Laughter) I did not know that the witness had said I was there. Neither Akbar nor Abdool Ali were there. Akbar and the Rao Sahib were a little distance off. The ayah, the driver, and I were there. I said 'I went once.' Nobody spoke to me. I was asked whether I had gone, and I said I did go. The Rao Sahib asked me,

Re-examined by the Advocate General It was in the

hospital that I and the driver and the ayah were brought together. From the time I was examined by Col. Phayre till the time when I was brought to the hospital I never had any communication with the ayah. I did not speak to her at the hospital, nor did she make any statement in my presence. Neither did the driver make any statement in my presence. I don't remember how many days after I saw the ayah at the hospital it was that I made my statement to Mr. Souter. Between the time I saw the ayah at the hospital and made my statement to Mr Souter, I did not see either the ayah or the driver, nor did any one tell me what they had said.

Mr. Justice Couch said one of the Commissioners wished to know which palace the witness went to.

Witness To the palace called the *havalee*.

Was your son taken into the service of the Maharajah at your request?—At that time the present Maharajah was not on the *gadee*. It was in the time of Maharajah Khunderao

Well, was it at your request?—I made a request to the Resident, Colonel Wallace, at the time he was about to leave England, that I might be employed under His Highness Khunderao as what I got at the Residency was not sufficient for my maintenance.

Was it in consequence of that that your son was taken into this service?—Colonel Wallace transferred me and another man called Syed Hossein at that time to the service of Khunderao

How long were you in this service?—For two years, and after that Colonel Barr got me back to the Residency, and my son got my place with the Maharajah.

KHARBHOY POONJABHOY'S EXAMINATION.

Kharbhoy Poonjabhoy said I am a shigram-driver in the service of Ramchunder Hulwa. I live in the cantonment bazaar at Baroda. I know Fyzoo, the chokeydar of the Residency. I know him because he was with the ayah when they went in my gharry. They went in my gharry a long time ago, about 1 or 1½ years ago. They got into the gharry at a place near the school, and went to the Chupaneer Gate. There they told me to stop the gharry and remain. This happened a long time ago, and I don't remember what the hour was, but I think they got into my gharry about 8 o'clock. When they got out of my gharry I saw them go into the city through the gateway, but I don't know where they went after that. That is the door that leads to the *havalee*. It was past 11 o'clock when they returned. When they returned I was asleep. They woke me and got into the gharry. I drove to the place near the school. There they got out of the gharry and went towards the Residency. The Residency is on the opposite side of the *maidan* where I stopped. That (pointing to Ameena) is the woman whom I drove in my gharry.

KHARBHOY POONJABHOY'S CROSS-EXAMINATION

Cross examined by Sergeant Ballantine I came here from Barton *sahib's* bungalow, where I am in custody. Mr. Souter puts up in that bungalow, but the bungalow is at some distance from the tent where I am. I was taken up after the Maharajah was arrested, and have been in custody ever since. I am kept in

custody in order that I may not communicate with other persons. I have done nothing besides drive these two persons to the *havalee*. I informed my master on the night that I drove Fyzoo and the ayah to the *havalee*. I did not tell anyone else. I had seen the ayah before when I drove my carriage to the Residency. I had also seen Fyzoo before, but had not spoken to him. I was present when Fyzoo and the ayah were at the hospital, and Fyzoo then said I had driven him to the *havalee*. I was asked who the ayah was I had driven to the Maharajah, and I pointed her out. She was at some distance from me. I also pointed out Fyzoo. It was to Akbar Ali that I pointed out Fyzoo. Fyzoo did not hear what I said because he was at a distance from me. I don't know whether Fyzoo saw me point him out. I had never pointed him out before I did not go near to him because I was told to point him out from where I was. I was asked this "Did he go in your gharry?" I was told "See if you can recognise that man as the man who went in your gharry". That was what was said to me. The ayah was the only woman I saw there. My master is not in custody for letting the carriage. I have not seen my master since I was in custody. I have not told Akbar Ali or any one that I told my master that I had driven these people to the *havalee*.

Have you been told that your getting out of prison depends on this case?—No. I was told that I would be liberated by the *Sircar's* order when this business was over.

I suppose Akbar Ali told you to tell the truth?—No. Akbar Ali told me nothing. My evidence was taken by the *sahib* (Mr. Souter). He told me that when the *Sircar's* business was over I would be set free.

Re-examined by the Advocate General. I am not kept in confinement at all. I am supported by the *Sircar* and sit there.

You have rather a pleasant time have you not?—There is no escaping the *Sircar's* order (laughter).

Sergeant Ballantine. Ask him if he is married. Witness. No. I am not. (After a pause) Oh! yes, I am. (Loud laughter)

SHAIK CURREEM'S EXAMINATION

Shaik Curreem said I am a peon in the service of Mr. Boevey, who was Assistant Resident here. I was in his service when he went to Nowsaree last year. He returned from Nowsaree in the beginning of the rains. After he returned I remember going with the ayah Ameena to a certain place. I think this was eight days after my return. We went to the Maharajah. We went at about eight o'clock in the evening in a gharry. The ayah had desired me previously to call a gharry-walla named Sundul. I called him and he brought a gharry for me. He brought it to a place near the school. I and the ayah got into it there. The ayah told the driver to go to Salim's house. Salim is a *passeero* in the service of Mulharao. When we got near Salim's house Sundul went to call Salim. Salim got into the carriage with us, and we all went to the *havalee*. The *havalee* is near a place called Mandvee in the city. When we got to the *havalee* Salim took me and the ayah to the Maharajah. We entered the *havalee* by a door at the back. The Nuzzer Baug joins the entrance through which we went into the *havalee*. Having entered this door, Salim

took us upstairs. We went through two rooms, and we were told to sit in a third room as the Maharajah was not there. I do not remember on which storey the room was. The room in which we sat was on a storey above the two rooms through which we passed. I had to turn when I got to the top of the stairs to get into the room. No one came to me when I was in that room. There was no one in the room when I went into it. I did not see the Maharajah on that occasion. The ayah remained with me all the time I was there. From that room I the ayah and Salim went to the Maharajah. When we went upstairs we saw the Maharajah sitting on a bench close to the top of the stairs. The ayah sat down and conversed with the Maharajah. I stood aside. I took no part in the conversation. No one else took part in the conversation. No one was present except the Maharajah Salim the ayah and myself. The ayah commenced speaking about the Nowsaree wedding. The Maharajah asked the ayah whether the *sahib* was angry with him on account of that marriage taking place. The ayah said, "I cannot say anything now but when the *madam sahib* comes I will *samjao* her." She also said "I do not go to the *sahib's* room when the *madam sahib* comes. I will explain things to her." The Maharajah addressed me said, "Do you explain things to your *sahib*?" I said "My *sahib* will not listen to what I say. He will not listen to anybody but does what he thinks right." This was all that was said. We were at the *havalee* about an hour. We then went away, and I came to the Residency. On the following day the ayah told me to go to Yeshvuntrao and I would get a present on the occasion of the marriage. I knew Yeshvuntrao because he used to come to the Residency every four days with a basket of vegetables. I went to Yeshvuntrao's. Only Salim and Yeshvuntrao were there. Salim gave me Rs 200 and told me to give Rs 100 to the ayah and to keep Rs 100 myself as a present on the occasion of the marriage. I kept the money that night, and at six o'clock the next morning I went and gave the ayah Rs 100.

SHAIK CURREEM'S CROSS EXAMINATION

Cross examined by Sergeant Ballantine. I gave the money to the ayah in the presence of her husband. I was examined by Mr. Boevey after the alleged attempt to poison. Colonel Phayre was in his office at the time. I did not say anything to Mr. Boevey about my visit to the Maharajah. I was asked questions about Salim but not about the Maharajah. I said that I was on bad terms with Salim, and that while the Commission was sitting Salim had said to me I should communicate what went on and I would be rewarded for it. I told Mr. Boevey that I had told Salim that if he said such things to me again I would tell my master and that Salim was at enmity with me on that account. While I was telling Mr. Boevey about Salim I did not tell him about the Maharajah because I was afraid that I might be accused in connection with the poisoning. When I was examined by Mr. Souter I told him all that I knew.

Is this what you told him?—(Reads from deposition) Last of weather I accompanied the Assistant Resident to Nowsaree. A few days after his return

to Baroda the ayah Ameena, lately in the service of the Assistant Resident, accompanied me to see the Maharajah. We took a bullock shigram at the school and started about 8 o'clock at night. We first went to the house of Salim Syed, who got into the shigram, and went with us to the *havalee* and we all three were conducted by a private entrance into the presence of the Maharajah, who was upstairs. The Maharajah, Salim and the ayah talked privately together for about an hour."—Yes, that is right.

Did you say one single word about having heard a part of the conversation?—I did tell him.

Were you examined more than once by Mr Souter?—No, only once.

Was what you said taken down?—Yes, and it was read over to me, and Mr Souter asked me if it was correct, and I said it was. I mentioned to Mr Souter what was said by the Maharajah and the ayah about the marriage at Nowsaree. I did not hear this read over to me. I have not spoken to Akbar and Abdool Ali since yesterday.

Why did you go the Maharajah if you were not friends with Salim?—The ayah took me there to get a present in connection with the wedding at Now saree.

The ayah says she went on this occasion because you and Salim asked her to go?—That was not so.

Re-examined by the Advocate General. I have not spoken to the ayah since yesterday. I have not spoken to any one, nor has any one spoken to me about the evidence the ayah gave yesterday.

The Court rose at half past four o'clock.

THIRD DAY

BARODA, FEB 26, 1875

ON the assembling of the Court, Sergeant Ballantine said May I mention a matter of considerable importance—or what may be of importance—in regard to the interpreter. We have noticed on several occasions that he has not rendered the whole of the answer. He has done this, no doubt, with a view of conveying a proper answer, and has only given a portion. If he might be directed to render every word the witness states, whatever his opinion may be, it would be much better.

The President: That ought certainly to be done. I think (to the interpreter) it would be better if you stood more this way. (To Sergeant Ballantine) I do not think we could put the witness in a more convenient place.

Sergeant Ballantine I think not. Of course I do not convey the slightest imputation on the interpreter, but in giving an answer, we should have the entire reply.

SUNDAL KHAN BIN BUKTHIAR KHAN'S EXAMINATION

Sundal Khan bin Bukthiar Khan was then called and examined by Mr Inverarity. He said I am hash shigram-driver in the service of Shaik Mahomed Bharagar. I know Mrs Boevey's ayah. I don't know her name. She is a woman. That is the ayah (points to Ameena). I know Cureem, Mr Boevey's peon. I have driven that woman and Cureem in my gharry

towards the city from the *mandan* called Peer Putta. The *mandan* is near the Bara Putta, which is the boundary between the Gaekwar's territory and the British cantonment. It is near the school. I drove to Salim's house. When I got there, Cureem Bux told me to go to Salim's house and call him out. Salim is the Maharajah's *sawar*. I know him because he was in the habit of coming to the Residency. Cureem took hold of the reins of the gharry while I went and called Salim. When I called Salim, he came and got into the gharry with Cureem and the ayah. I then drove to the Sircar's *havalee*. That is the *havalee* near the Clock Tower. I drove the gharry through a way between the two *havalees*, and stopped the gharry at a staircase near the Nuzzur Baug. When I got to the Nuzzur Baug, the ayah, Cureem, and Salim went upstairs, and I got out of the gharry and went to sleep on one of the steps of the staircase. All three returned about 12 or 1 o'clock, and the sentry then awoke me. I took the gharry about half past 9 o'clock and Cureem and the ayah got into it about 10 o'clock. I drove the ayah and Cureem back to the Peer Putta *mandan*. I don't remember at what time of the year this was. I don't know whether it was before or after the monsoon, but when I went it was raining a little. I think it was either eight or nine months ago. Cureem Bux paid me for the gharry at six o'clock on the evening of the following day. (Cureem Bux produced.) That is Cureem Bux.

SUNDAL KHAN BIN BUKTHIAR KHAN'S CROSS EXAMINATION

Sergeant Ballantine When did you first make this statement?—I was going from the train to the city—Question is repeated.

Witness The Bombay police came here and made enquiries and they could get no information.

Sergeant Ballantine Will you answer my question?

Witness I first made this statement in the presence of Mr Souter.

When?—When the Bombay police arrived here and were making enquiries.

When was that?—I am an ignorant person. I don't know how to read and write. I don't know when it was.

You remember all those things that happened six or eight months ago, and I mean to have this when was it?—I don't remember.

Was it last night?—No.

Was it the night before?—No. It was at the time when the Bombay police arrived.

How long ago was that?—About two or three months ago.

You made it to Mr Souter, did you?—I made the statement to Mr Souter, but I requested that he would not publish it, I being a resident of a foreign country.

The Interpreter The meaning is that he would not say anything about it in an assembly or council.

Did Mr Souter take it down?—No.

Were you put into confinement?—No.

Have you been in confinement at all?—No.

Are you in confinement now?—No.

Have you made this statement to any one since two months ago?—No.

Have you never spoken to anybody about it since that time?—A sahib sent for me at night and took

down what I had to say. That is the sahib (points to Mr. Cleveland).

Was that last night?—Yes.

Was anybody present besides Mr. Cleveland?—No.
Do you speak English at all?—No.

What language did you speak to Mr. Cleveland?—There was a havildar near him who explained to the sahib, I don't know whether he was a havildar or not.

Do you know Abdool Ali?—No.

(Abdool Ali produced.) That is he who put questions to me last night. I was taken to the tent by a puttywallah, and the sahib took down what I said.

How do you remember that the time you took the ayah and Cureem away from the palace was one o'clock?—Why should I not remember; I was paid my money.

Which was it, 12 or 1 o'clock?—I had no watch; it was either 12 or 1 o'clock.

Cannot you remember within an hour which it was?—No, it was a dark night, but I believe it was either 12 or 1 o'clock.

What questions did Abdool Ali put to you?—Abdool Ali said to me, "The sahib wants to know who hired your gharry."

Did he tell you when?—He didn't say when, but it was eight or nine months ago.

When he asked you who hired your gharry, did you ask him whom he meant?—Yes; I asked him.

And what did he say?—The answer he gave was "At the time when Cureem Bux went in your gharry"—(corrects himself)—"when Cureem Bux and the ayah went in your gharry."

And what did you say to that?—I said it was either eight or nine months ago that they went.

Had you known the ayah before?—No.

Had you known Cureem before?—Yes; I used to see him going about the bazaar.

Had you ever driven him before?—No.

Have you seen Cureem since?—Yes.
Did you see him last night?—No; nor this morning.
Did Abdool Ali tell you what Cureem had said yesterday?—No.

Where did you sleep last night?—At my house.

Were not policemen there?—No.

Do you mean that you have not been in confinement at all?—I was never in confinement.

Not at any time?—One day, that first day when my statement was taken, I was in confinement. I had not mentioned the circumstance about Cureem Bux, and I was kept in confinement. Afterwards I was liberated.

Were you liberated when you mentioned about Cureem Bux?—Yes. I was not actually imprisoned; I had my belt on.

As I understand it now, at first you did not mention Cureem Bux?—I mentioned Cureem Bux's name afterwards when I was told that what I said would not be published.

Mr. Melvill: Does he mean that what he said should not be published, or that his deposition should not be taken?

Witness: I was unwilling to give evidence. I was afraid of my life (putting his hand to his throat).

Mr. Melvill said he thought the witness meant his deposition should not be taken.

Serjeant Ballantine: As I understand it, you made this statement some two months ago?—Yes, two or two and a half months ago.

Was that made to Mr. Souter?—Yes.

Was nobody else present?—No, no one was present.

Did you then tell Mr. Souter anything about your driving either the ayah or Cureem?—I first made an arrangement with Mr. Souter to save my life. I caused him to agree that he would not publish what I stated, and that he would not mention me or make me known.

Now you need not look in that direction, just look to the bench. Did you, upon that occasion, mention the names either of the ayah or Cureem?—I mentioned the ayah's. I did not mention Cureem's.

What did you say about the ayah; how did you mention her?—I merely said the ayah went to the city.

But I thought you did not know the ayah?—I know her now.

But you did not know her then?—Yes; I knew her then.

Did you know who she was when you saw Mr. Souter?—I knew at that time that she was Mrs. Boevey's ayah.

How did you know at that time?—Because she lived at Mr. Boevey's.

But had you ever seen her there before your carriage was hired?—Yes; I had.

And did Mr. Souter then ask you if Cureem had gone with her?—No.

Then how came you to make a bargain with Mr. Souter; was he not satisfied, or what?—I was afraid of my life.

Who were you afraid would take it, the ayah, or Cureem, or whom?—My fears were with reference to the Gaekwar's side, I being an inhabitant of a foreign country.

And then you were confined that night, were you?—No; I was not confined.

Not at all?—No.

At no time?—No; I was taken to Mr. Boevey's bungalow.

Were you kept in confinement till you mentioned Cureem's name?—No.

Just remind him of what he has said before, and let him give any explanation he pleases. He said, "I had not mentioned the circumstance about Cureem and was confined. I was released when I told about Cureem."

Witness: After I had made an arrangement about my life, I told my whole story.

How came you to see Mr. Souter on the first occasion?—Enquiries were made with regard to this case.

Did you go to Mr. Souter, or did he come to you?—When the Bombay police came enquiries were made regarding this case.

Question is repeated.

Witness: I went to Mr. Souter.

Did you go alone or did anybody take you?—Syed the oot-walla (camel-man) took me.

Is he a camel-driver?—He had a camel formerly.

Did you know that he is the man who made a charge against the Gaekwar?—I don't know.

Serjeant Ballantine: I do not know whether your Lordship got the name of that camel-driver or not. I mention this because I fancy that his name is known to Sir Richard Meade.

The President I have got Syed, the camel-man.
Serjeant Ballantine Yes, that is he. His name is Syed Ali.

SUNDAL KHAN BIN BUKTHIAR KHAN'S RE-EXAMINATION.

The witness was then re-examined by Mr Scoble and deposed When I first went to Mr. Souter I went with Syed the camel-driver. I was asked what I had to say, and I made a statement. I said that Cureem Bux came to me at six o'clock to hire my gharry at half-past nine or ten o'clock. It was half-past nine I said that the ayah and Cureem got into the gharry, and the gharry was driven into the city, to the house of Salim. When we arrived close to Salim's house, Cureem Bux desired me to go and fetch Salim. I gave the reins in Cureem Bux's hands, and I went to call Salim. Salim came from his house, and Salim, Cureem Bux, and the ayah got into the gharry, and we went thence to the Maharajah's palace. We went to the havalee close to the Nuzzur Bang. They all three alighted and went up-stairs. I went to sleep.

Serjeant Ballantine We do not want all this. We have had it.

The Advocate-General Very well (To witness) When did you mention all this to Mr. Souter?—About two months or two months and a half ago, and it was then I made the agreement about it not being published. I did not make the arrangement 'bout it being published until after I had made the statement. It was at the same time.

The Advocate-General At the same interview

Serjeant Ballantine Oh, no. That is what you say. The witness has already said it was the day before.

Re-examination continued I made that arrangement with Mr. Souter because I was afraid of my life. I was brought from the Residency to Mr. Boevey's bungalow to point out the ayah and Cureem Bux. That was after I had made the statement. I pointed out the ayah and Cureem Bux to Mr. Souter and Mr. Boevey. I was then allowed to go away.

Mr. Melvill He said "told" to go

The Interpreter No the word means "permitted".

Mr. Melvill Did he not say "jhow"

The Interpreter No, "rejhaw," which is 'permitted' to go

Mr. Melvill Oh! I beg pardon. I thought he said "jhow".

Serjeant Ballantine I think it right to mention that we have been supplied sometime ago with the evidence proposed to be given, but this person's was only given to us this morning, and I only saw his name when I came into Court. I must therefore claim permission to ask him a few more questions as the matter is new.

The President Certainly

Serjeant Ballantine to witness Who is the person you call Syed, the camel-man?—Saidukt Ali.

Does he come from Ahmedabad?—I don't know.

What had he to do with this case? Why did he come to you?—He was sitting in his house and there was some talk as to the Bombay police having arrived.

But how came he to talk on the subject? What had he to do with it?—Because I happened to say that I could point them out.

Point out whom?—Would point out to Mr. Souter that such and such persons had gone to the Sircar.

Did you tell Saidukt Ali you would point out Cureem and the ayah?—Yes, I said I would prove that.

Mr. Melvill No, no. He said "give the clue."

The Interpreter He said "I will prove that," the word was "mundah" I will ask him again.

Answer repeated That I would prove they had gone to the city.

Serjeant Ballantine Now just tell him to attend to this question and to think a little before he answers it? Why, if he was afraid, did he mention to Saidukt Ali that you knew these persons and named them to him?

—It was said that no clue to this case could be got.

Who stated that? Was it Saidukt Ali?—Yes, Saidukt Ali said that.

Have you seen Saidukt Ali lately?—No, (then after a pause) yes.

Do you mean no or yes?—I have seen him.

When?—He lives in the Camp. I saw him in the Camp fifteen or sixteen days ago.

Did you see him about this matter?—No

Do you know whether he is assisting to get up this case?—I do not know.

Do you understand that you gave the first clue?—Yes. I told Saidukt Ali, and Saidukt took me to Mr. Souter.

The President What do you mean by saying you were afraid of your life?—Because I was a resident of a foreign country. I had heard that Bhow Scindiah had been trampled to death by elephants.

Sir Dunker Rao As you say that you are a resident of a foreign country, how is it you came to know Cureem and Mrs. Boevey's ayah?—I have been a servant here for three years.

How is it you knew about Bhow Scindiah?—There was a Court, a number of gentlemen assembled, and I heard what passed.

How is that you were afraid?—Why, if such a great man as the person I have mentioned was killed, I, a poor man thought I should be at once rammed into a hole.

Serjeant Ballantine Well, your prophecy was correct.

The Advocate General He means "buried alive."

Serjeant Ballantine 'Rammed into a hole' was what he said, and it has been entirely realised.

CHOTOOS EXAMINATION

The boy Chotoo was next called and examined by Mr. Inverarity. He said I am in the service of Ameena, the ayah of Boevey sahib. I have been in her service four months from this time. I remember going into the city with her on one occasion. It was about three months ago. I cannot fix the month or day in any way, but it was in the month of Ramzan. It was at night, about nine o'clock. We went in a gharry, belonging to a gharrywalla, a Mahomedan named Daood. We got into the gharry near a banyan tree on the maidan or plain. There was only the ayah, myself, and the gharry-walla in the gharry, but it was the ayah's husband who brought the gharry, and he was there at the time the ayah and I got into the gharry. We went to a place called the Arabkhana. It is a short distance from the mundi and havalee, in the city. When we got to the Arabkhana Salim was

there. He is a sowar. I did not know him before. I came to know him because during the time I was in the service of the ayah he was in the habit of coming to the Sircar's sowarry at the Residency, and he used to come into the ayah's room for a drink of water. After Salim joined us at the Arabkhana, we went to the havellee, to the front of it. When we got into the front of the havellee, I do not know what became of the ayah, whether she went upstairs or downstairs. She left the gharry, and Salim took her away, but I do not now know where. A short time after they left I went to sleep together with the gharry-walla. I was awake by her and Salim. I went back home with her in the gharry.

Advocate General : How long had you been in the ayah's service before you went on this expedition with her ?—I fix the time with reference to the time I have been with her, four months.

CHOTOO'S CROSS-EXAMINATION.

Cross-examined by Serjeant Ballantine : Have you been in confinement, my boy ?—No.

Not at all ?—No. A sepoy followed me, and I sleep at the Khan Sahib's.

At Akbar Ali's ?—I do not know his name. But (Akbar Ali is produced) that is he.

Have you ever had the honour of being followed by a sepoy before ?—No.

What does he follow you for, do you think ?—As soon as all these persons were brought to the tent, they were followed by sepoys.

Who lives in the tent besides yourself ?—All the lot.

Do you mean the witnesses ?—Yes.

Are they all together of a day ? Are they allowed to associate together ?—No, since the day before yesterday they are apart.

Were you all together the day before yesterday ?—Yes, since the day before yesterday we are apart.

Do you know why it was you were parted ?—Because they were examined.

[The Interpreter : Or depositions taken, I don't know which he means.]

Do you know Rowjee ?—Yes ; I know that Rowjee who was living at the palace.

Is he living in the same tent ?—He is separate from the witnesses.

Is he with anybody ?—He is here with the Khan Sahib.

Is he always with him ?—Ever since they have been taken up.

When did you first make a statement of your evidence ?—When they were taken up.

How long ago, two months ago ?—Very likely two months ago.

Have you had it read to you since ?—No.

Re-examined by the Advocate General : What witnesses are with you in the tent ?—The gharry-drivers and others.

How many gharry-drivers ?—Three.

What are their names ?—I do not know. I only know the name of the driver of the gharry in which I went.

You say that since the day before yesterday the witnesses are parted ?—Yes.

Who have been parted ?—The ayah and other witnesses who came here and gave their evidence.

Do you mean that those witnesses who have given

their evidence are parted from those who have not ?—I mean to say that those witnesses who have given their evidence have been kept parted from those who have not.

SHAIK DAOOD'S EXAMINATION.

Shaik Daoood was the next witness.

Examined by Mr. Inverarity, he said : My father's name is Shaik Rahim. I am a shigram-driver. I do not know Mr. Boevey's ayah well, but when I used to go to the Residency I used to see her. I know her by sight. I know the boy Chotoo, and I know the ayah's husband. I do not know him well, but well enough to give him the *salaam* when I meet him. I have seen him in the Bazaar and given my *salaam*. I have driven the ayah and the boy in my shigram but I do not know upon what day. I did not think I should be called upon to give the day. It was before the Dewallee, the last one. About two or four days before. I drove them from about twenty paces in front of Dadabhooy's shop. That was where they got in. It is close to here (the Court). Yonder (pointing), there it is. I drove the gharry to the city to the Arabkhana, where the Sircar's guard is stationed. The ayah then said, "Go call Salim." I then brought Salim close to the Arabkhana. Then Salim and the ayah got down and went to the havellee. I do not know where to. It was the old havellee, quite contiguous to the Arabkhana. I stopped with my gharry close to the Arabkhana, and a Mahomedan shrine. I took the cushion from the gharry and rested and went to sleep. Salim awoke me. The ayah was with him. I awoke and got up and put the bullocks in and made the gharry ready, and turned it towards the Camp side. I then drove them back. I drove the ayah and Chotoo back. It was the butler who came to me to hire the gharry : to tell me to get it ready. I mean a butler from the Residency bungalow. I do not know his name. He was of the Mahomedan caste (Shaik Abdullah produced)—Yes that is he.

SHAIK DAOOD'S CROSS-EXAMINATION.

Cross-examined by Serjeant Ballantine : Where do you stay now ?—In the Camp.

With whom ?—With my parents. With whom should I live ?

Is there any police officer or sepoy with you ?—No policeman is with me.

Have you ever been in confinement since this matter has been going on ?—No.

How did you come to give this information to any one ?—I did not give information.

To whom did you first mention it ?—I mentioned it to a man.

But men have generally names. Who was it ?—I don't know. (Sundal produced)

Was that the man ?—Yes, that is the man.

Where were you when you mentioned it to Sundal ?—When he was sitting at his masters and I went there.

Who was his master ?—A bread baker.

Do you know Saidukt Ali ?—No, I do not know him.

How came you to mention it to Sundal ?—I met him one day on the road and he enquired.

What did he enquire ?—He asked me "who did you take that night ?" I said "The ayah and a lad."

He could not have said that. What were the exact words he said?—What persons did you take that night.

What night?—I do not remember what night.

But what night did Sundal ask you about?—The night upon which I took the ayah.

How did Sundal know you had taken the ayah on any night?—Because he had taken the bullocks from the gharry and was giving them water at the cistern.

But how did Sundal know you had taken the ayah any night?—Because I mentioned it.

How came you to mention it to him? You have said that Sundal asked you who it was you took that night. How did he know you had taken the ayah on any night?—He met me on the road.

Do you mean he met you on the road as you were taking her?—Yes

Then he knew whom you were taking, did he not?—He must have seen or otherwise he would not have asked me.

Was that the only time you had any conversation with him about it?—I had conversation with him some twenty-five times and with the carriage drivers.

The Interpreter He means generally.

Sergeant Ballantine You must not say what he means, I am sure, unless you are cleverer than I am

Cross-examination continued Do you mean you had conversation with him twenty-five times about his taking the ayah No, two or four times. Afterwards he did not enquire

Have you spoken to him three or four times about driving the ayah? Have you been looking after the drivers to find out who had driven the ayah?—What object could I have in so doing?

Did you do it? That is, what I want to know?—I myself took the ayah

Did Sundal tell him he had taken Cureem?—No, I did not take Cureem

No, no Did Sundal tell him that he, Sundal, had taken Cureem?—Yes He gave me the clue or evidence and then I also did the same

Did Sundal mention Cureem's name?—Witness (after a very long pause) Yes on one occasion.

That he did drive him?—Yes.

Sergeant Ballantine I want to know if I am under a misapprehension Chotoo said that there were three of these drivers in custody with him, amongst them the one who had driven him. Now this man has sworn he was not in custody, but living with his father and mother, and he added pathetically, "where should I live?"

Re-examined by the Advocate General When was it you first spoke to Sundal about these matters?—On day at eight o'clock

How many weeks ago?—About two months or two months and a quarter ago.

Had you previously been acquainted with Sundal?—We are fellow-servants, of one and the same master though we live separately.

Mr. Melvill (to interpreter) No, no. He said his master and Sundal's master were brothers

The Interpreter He said one master, and perhaps while I was speaking added the other.

Advocate General What is the name of your master?—Chotoo

What is the name of Sundal's master?—Sahib Salmut.

Do they both let out gharrys on hire?—Yes.

Where do they keep these, in separate places, or the same places?—Separate.

Where do they live?—One lives near a liquor shop and one in the butchers' quarters.

Both in the Camp bazaar?—Yes.

You say you met Sundal on the road when you were taking the ayah to the city?—Yes. He was giving water to his bullocks.

Whose?—The baker's bullocks.

The bullocks he is in the habit of driving?—Yes.

He was giving them water at a cistern, where was it?—On the Baroda road.

From the Camp to the city?—Yes, on the other side of the bridge, called Banda Bridge.

Did you speak to him or he to you?—He spoke to me

As you were going to the city while he was watering his bullocks?—Yes. He called out to me, "Where are you going?" I told him, "To the city"

How long after was it he asked you whom you had taken that night?—Five or seven days afterwards he mentioned the matter to me. I said the truth would be out.

When was it that Sundal mentioned Cureem's name to you?—One day as we were sitting together at about eight o'clock in the morning He mentioned the matter and I also mentioned the matter.

Was this on the occasion he asked you whom you had taken that night?—Yes

On the same occasion you said "The truth will be out"?—Yes

Sergeant Ballantine What did he mean by that?

The Interpreter It is a common expression and might mean it could not be suppressed. It is difficult to translate it literally

What made you and Sundal talk together about these matters?—He asked me who I took.

Was there anything that directed your attention to this topic at the time?—He asked me whom I had taken that night

Do you remember when the Bombay police came to Baroda?—No.

Do you remember the circumstance?—No, I do not. I did not see them.

The Advocate General I ask your Lordship to recall Sundal before there can be any communication between this witness and him.

SUNDAL KHAN RE-CALLED.

Sundal on being recalled said I know the last witness Shaik Daood. I and he are in the same service, the same individual, two brothers. (Laughter) I am in the service of Chotoo. I have had conversation on one occasion with Shaik Daood. I was going from the station to the city, and I took off my bullocks in order to give them water at the river. Daood was going with his gharry towards the city. He went on, and after giving water to the bullocks I went after him. I saw his gharry near the Siror's havelas, and I returned home. I took the passenger to the place and went home. On the next morning I asked him, "Who did you take at night?" meaning last night. He said, "I took Chotoo and the ayah."

Cross-examined by Sergeant Ballantine Did you mention Cureem?—Yes.

Did you tell all this to Mr. Souter?—I did.

Re-examined by the Advocate General : What did you say about Cureem to Shaik Daood?—I asked him where he took the passenger in the month of Ramzan.

Yes ; but you told my learned friend that you mentioned Cureem to Shaik Daood?—No ; I heard this subsequently when I mentioned this matter subsequently to counsel.

What do you mean by counsel?—I mean that I made a statement to Mr. Boevey.

The Advocate General : Just remind him that he told Serjeant Ballantine that he mentioned Cureem to Shaik Daood.

Witness here looked curiously at the learned Serjeant.

Serjeant Ballantine : You don't like the look of me evidently.

Witness continued : I did not mention Cureem to Shaik Daood. I did not understand the English question. I am a poor labouring man. I am not a learned man. I cannot read or write. I will take any person who will pay me. (Laughter.)

Serjeant Ballantine : Oh ! I have no doubt.

The Advocate General : In his gharry he means.

Serjeant Ballantine : No, not necessarily.

The President (to witness) : You were asked whether you mentioned Cureem with reference to the conversation the next morning after he had taken them to the palace. Then the question was put : "Did you mention Cureem?" Now did you mention Cureem or not?—I did not.

Did you ever mention Cureem?—I do not remember.

The Advocate-General : You began to say something about Mr. Boevey. What was it?—I do not know whether it is Mr. Boevey or Mr. Souter. There he is sitting (pointing to Mr. Souter). I know him by the name of Mr. Boevey.

Serjeant Ballantine : I would just observe that this is the man who said he knew Mr. Boevey and Mr. Boevey's ayah because he had lived here three years as a servant, and now he does not know Mr. Boevey from Mr. Souter.

Advocate General : Was Mr. Boevey ever present when you made your statement to Mr. Souter?—Yes, and Daood was present.

When?—On the day I made the statement to Mr. Souter. On that occasion Daood had been taken up, and was present.

Serjeant Ballantine : As this is new matter, or at any rate a change from what he has already stated, I beg leave to ask a question or two. When you (to witness) had driven the ayah, why did you not mention that you had driven Cureem also?—If I had given the names I might have been beaten.

It was because you were afraid of your life?—Yes, I am afraid of it even now.

HAZRUT SHAIK ABDULLAH'S EXAMINATION.

Hazrutz Shaik Abdullah was next examined. He deposed : I am the husband of Ameena, the ayah who has been examined in this case. I was employed last year in the service of Major Blakeney. I was in his service seven months. During two months of that

period I was living at Baroda, and then I went to Mahableshwur. It was in March we went to Mahableshwur. It was about the 28th or 29th of March. I returned with Major Blakeney to Baroda. I remained with him that month and the next, when I was discharged. I went then to live at the Residency with my wife the ayah ; and I have been living in Baroda ever since. It was in January last year I entered Major Blakeney's service. Before January I was living in Bombay. My wife Ameena was in Bombay in March with her mistress *madam sahib*, and she remained there more than a month. I received a letter or letters from her when I was at Mahableshwur.

The President : Was it a letter or letters?

The Interpreter : I cannot say unless I ask him specially.

The President : Then ask him.

Question asked : Witness answered : I received two. Some letters were then produced. Witness identified one he had received from his wife which was marked A. Another was shown him which he did not identify, and this was initialed by Mr. Jardine, the Clerk to the Commission. Witness also identified two letters as those he wrote to his wife, one was marked B, the other C. His reply in identifying one was thus translated, "This is the letter or a letter I wrote to my wife."

Serjeant Ballantine : Which did he say, "a" letter or "the" letter?

The Assistant Interpreter : I cannot say. There are no articles in the vernacular language, Serjeant Ballantine.

Witness continued : I posted the letters marked B and C to my wife. I was present when all the letters were found. There were four of them. They were found in the same box in a room at Mr. Boevey's.

The Advocate General : I propose to put in evidence the three letters to which this man has spoken : one as having been received by him from his wife, and the other two as having been sent by him.

The President : Which do you take first. A is the one he received from his wife.

The Advocate General : I will take that first.

Serjeant Ballantine here rose and said : I object to this, and I assume that this Court although not an ordinary Court of Justice is governed by those rules which apply to the admission of evidence generally. (The President : In India?) Yes, in India, and if I am right in that supposition, I may safely say then in England also they would not be receivable. The only question that arises is whether this letter can be receivable as evidence. As far as I am informed and I am exceedingly indebted to my friends for the way I have been instructed, it appears to me that the only section of the Evidence Act I need quote, is the 157th section. I quote from Norton's edition, in that section it is provided that, "In order to corroborate the testimony of a witness, any former statement made by such witness relating to the same fact, at or about the time when the fact took place, or before any authority legally competent to investigate the fact, may be proved." Now my learned friend is bound to show that a certain fact has been stated. There must be a fact pointed out. That, I apprehend, is the preliminary point which

my learned friend must establish He must then show that—we are not now going to discuss the substance of the merits of the statement, but only the receivability of it—my learned friend must first of all point out the fact he proposes to corroborate, and then must show that the letters in question related to that fact, and that they were written at the time, or immediately after that fact occurred

The Court It says not "immediately" but "about the time"

Sergeant Ballantine As far as I understand the evidence at present so far as it has gone, the ayah's husband received one letter, the one we are now discussing No date is fixed as the date of that letter I take it that a letter on the act written a day or two after an event might be corroboratory evidence of that event, but not if it were written long after I then, again, it has not been shown that the letter is in the wife's handwriting That would be another objection The time it was written and the relation to the facts are both yet in doubt, and therefore I maintain that what it is intended to substantiate may be in doubt As to the husband's letter I don't see how it can possibly be made admissible

The Court We had better take the wife's letter first

Sergeant Ballantine Just so Taking the ayah's evidence there was no particular fact about which we are told she wrote to her husband This letter was written from Bombay, and really there is no occurrence to which this letter can be any corroboration The story told by the wife contains certain allegations

The President Was the first letter written from Bombay?

Sergeant Ballantine Yes, and it cannot by any human possibility be on any facts in connection with this case I quite agree that the ayah might write from Bombay on what took place at Baroda but I apprehend that the letter must be written immediately after or about the time the events occurred I apprehend the intention of the section is that a letter written while the matter is fresh upon a person's mind, is receivable in evidence I apprehend it has never been contended, and your Lordship will rule that if a person writes a letter a week after that would not be sufficient

The Advocate General I apprehend that this Commission is not bound by the strict rules of evidence, but can receive or admit before it any statement or document which it thinks fit to receive or admit in regard to the elucidation of anything before the Commission The Commission can therefore determine, apart from all the strict rules of evidence, whether it will look at these documents The notification by which the Commission was appointed gives the President the fullest power in this respect I apprehend that the widest discrimination is left to the President The notification says the President has power "to call for and to receive or reject evidence documentary or otherwise" But even supposing that the Commission were to conceive itself bound by the rules of evidence, then I apprehend that confidential communications such as these private letters between husband and wife who knew and saw what was going on would be strictly receivable. This letter is dated from Bombay, 10th April

1874 and we know she was there in March and April

The President You see at present I am not sufficiently informed about this letter to say whether it is admissible or not You say it is dated 10th April Is it in corroboration of matters that occurred about that time

The Advocate General It is in corroboration of the relations which existed between Salim, Yeshvuntrao and the ayah I propose to put it in to show the confidential relations existing between these three persons and the object for which that confidence had been established

The President What part of her testimony does it corroborate?

The Advocate General The statement she makes that she was in communication with Yeshvuntrao and Salim I do not refer so much to any particular statement as to the general tone of her evidence Salim and Ye-hvuntrao got her to go to the Maharajah and she received money from Salim through Yeshvuntrao She says that Salim had been to her to get her to go to the havalee She says that Salim on the second occasion she visited the palace told Cureem the next day and Rs 200 were brought to her

The President At present you have not got a proper proof that she directed a letter to be written You will have to show that

The Advocate General I do not propose to read the letter now but merely to put it in

Sergeant Ballantine Then we should have to discuss the matter again when the time arrives for reading it

The President If I rule it admissible it will be dependent upon proof that she directed it to be written

Sergeant Ballantine It must be admissible *qua* a particular fact, and *qua* a particular fact only

The Advocate General My learned friend has read the 17th section of the Evidence Act but I think his attention has not been drawn to the 11th section which is as follows—"Facts not otherwise relevant are relevant (1) if they are inconsistent with any fact in issue or relevant fact (2) if by themselves or in connection with other facts, they make the existence or non existence of any fact in issue or relevant fact highly probable or improbable

Sergeant Ballantine If you look at the illustrations they are only — —

The Advocate General But they are only illustrations, and are not exhausted

The President If I rule that they are admissible it must be proved they were written by her or under her direction

Sergeant Ballantine I am not anxious to re-discuss the matter We all know that until lately in cases where an injury had been done, and a person had a law suit a document in corroboration of evidence might be shown to exist but the contents of the document must not be stated It was a most absurd rule and this clause was inserted to remedy that

The President My opinion is that the Act was intended to go much further than that When I am sitting in Court I have acted and should act upon it as going much beyond that

Sergeant Ballantine I should not wish to discuss a matter upon which your Lordship has already decided

It would not be respectful to attempt to alter your Lordship's view I would suggest that your Lordship should read these letters and then admit them if you think fit after you have read them

The President I will give my opinion now Taking the letter to be written at the time stated, if of the nature it is stated to be, and if it be written by the direction of the *ayah* I think it is admissible as corroborative evidence of the facts it is stated the letter relates to.

The Court then adjourned for tiffin.

When the Court resumed its sitting after tiffin, Shaikh Abdoolah was recalled, and said I knew Yeshvuntrao and Salim a little

Mr Melvill I think he means he could recognise them

The President Mr. Scoble means did he know them to speak to

The interpreter repeated the question, and the witness said he knew the persons to speak to

The President (to the Advocate General) I see you have not got your short-hand writer here

The Advocate General No he has not come yet

The President I don't know if we have come in rather before the time

The Advocate General I don't think so, my Lord

The examination of the witness was then discontinued

In a few minutes the Advocate General said My Lord I understand that we have a short-hand writer here (pointing to the reporter for the defence)

The examination of the witness was then resumed

The witness said I have had conversation with Yeshvuntrao and Salim I made the acquaintance of Salim when he was in the habit of coming with the *howaree* procession of the Maharajah to the Residency Salim was in the habit of coming to Fywoo's room to drink water I did not know him before that Fywoo's room was near my wife's room I was aware of my wife having gone to the city to Salim She told me of it in the morning the day after I arrived from Bombay That was in June She said that the Maharajah had sent for her and Fywoo through Salim, and she went in company with Fywoo She said that the Maharajah had enquired if she knew anything about the Committee (the Commission), and she replied that she knew nothing about it. The Maharajah then said that she should *samyaao* the *madam sahib* and she replied that the *madam* would not listen to anything she said

(The interpreter explained that *samyaao* meant "impress something in his favour")

The witness continued She said nothing more to me about that visit I did not know then of my wife's having gone to see the Maharajah on any other occasion The next time that I knew of her going to see him was when I was in Major Blakeney's service. I believe that was in the month of June, after my return from Mahableshwur Regarding this visit she told me that she had gone in company with Cureem Bux She said the Maharajah enquired if any allusion had been made to his marriage, and she replied that she had not heard any The Maharajah then asked her to *samyaao* the *madam sahib*, and she said that she was unable to do so.

The President The word "*samyaao*" properly means to talk over

The witness continued My wife received Rs. 100 soon after this visit I knew this because she told me of it. She said she had been asked to send Cureem Bux on the following day, and Cureem Bux went and received Rs 200, and he kept Rs 100 himself, and had paid Rs 100 to her I know as a fact that my wife did get the Rs 100 soon after this second visit my wife went to Poona with her mistress. I believe this was in July She remained at Poona for about a month or six weeks It was while my wife was at Poona on this visit that I wrote to her the two letters to which I have referred

The President Did they refer to matters that occurred while she was away?

The Advocate General They give his wife notice of the movements of Yeshvuntrao.

Mr Melvill said that the witness had not yet been asked about the movements of Yeshvuntrao, and therefore the letters could not be corroboration on that point

The Advocate General (to the witness) While your wife was at Poona, where was Yeshvuntrao?—He had gone to Bombay

The Advocate General said he proposed to use these letters also in this way, because they showed that the butler and his wife were taking a great interest in Baroda politics at the time It might be an argument of his learned friends that persons in their position would not take an interest in these matters

The President said he understood the Advocate General to mean that the fact of their writing these letters showed that they took an interest in these matters, but that was a very different thing from using them as corroborative evidence of facts.

Sergeant Ballantine said he did not understand any principle on which his learned friend put them in. His Lordship had put very clearly the only way in which the letters of a husband and wife could be used in evidence His learned friend wished to put them in to show that these persons had interested themselves in certain subjects

The Advocate General said he apprehended that these letters together with the other facts mentioned by the witnesses, showed that the matters deposited to by these witnesses were highly probable He did not intend to use these letters as proofs of the facts

The President said that if it was proposed to use them only in this way they must be careful not to give any other effect to them than that They were indirectly getting a statement of facts before the Commission when that statement was not evidence of facts

Sergeant Ballantine said he would save his learned friend the necessity for putting in the letters he would admit that the butler and his wife were taking an interest in these affairs

The Advocate General I only put them in to show that the butler and his wife were taking an interest in Baroda politics

Sergeant Ballantine I admit that they were taking an interest in what was going on at home, politics is a wide word.

The Advocate General Then I would ask the Commission to allow them to be put in.

Sergeant Ballantine said then he would for that reason ask the Court to reject them. Politics was such a wide word that he could not admit that. Supposing these people did take an interest in Baroda politics, was that a substantive fact that was open to proof?

The President : You cannot say that it may not be relative the way that the Advocate General puts it ; you are only not satisfied with the use of the word politics.

The Advocate General : Of course it may be a fair argument on the part of my learned friend that these persons were not likely to have busied themselves in the political affairs of Baroda.

The President : Suppose I take it down that the Sergeant admits that the servants were taking an interest in Baroda political affairs. The Sergeant does not object to that, does he?

Sergeant Ballantine said he did not. He added that as he knew from long experience that if an objection was raised to a document it was always presumed that it was much more important than it really was, and as his Lordship thought that in a certain sense these letters were admissible, he would much rather that they were read several times, than that an exaggerated opinion should be formed of their importance.

The Advocate General : The first letter I put in is dated 16th August 1874, and is as follows :—

To SOBHAGI AWATI AMEENA BI AYA.

(Writes) Sheikh Abdoola Wallud Sheikh Adam, Butler, residing at Baroda.

I am well by the favour of God and by your blessings. The cause of writing (this) letter is as follows :—I have had no tidings of you since your departure from Baroda. This has made me very uneasy. You should therefore not act in this way. But it is the will of God, and there is no fault chargeable to you. It is my fate. What can you do? The Maharajah is much perplexed. He has received an order to the effect that the petitions presented by the ryots should be disposed of within fifteen months. Such an order has been issued, and the Diwan Sahib has been removed from office and prohibited from visiting the bungalow (*i.e.*, the Residency). Let this be known to you. I receive no news whatever from you. You should send me news frequently. I am doing well here. Do not entertain any anxiety. The people in the bungalow send compliments to you. Convey the same to the butler.

Yeshwantrao Naik has gone to Bombay. Let this be known to you. Shabuddin is also to go, (*but*) I have no correct information. As soon as you see this letter, send a reply without fail. What more need be written? This is what I had to write.

My compliments to the reader, in case they have been omitted through oversight.

SHEIKH ABDOOLA, Butler,
His own handwriting.

Dated 16th August 1874.

The Advocate General (to the witness) : In that letter there is something about a bungalow ; to which bungalow does it refer?—The Residency is referred to.

The Advocate General (to the Court) : I don't know

whether their Highnesses would like that letter read to them now.

The President : They would like to have it read now. The letter was then read in Hindustanee by the interpreter.

Sergeant Ballantine : I don't know if your Lordships have copies of those letters.

The President : No ; but we shall have them. I did not consider it right that we should receive copies of anything till I knew that it would be in evidence.

The Advocate General (to the witness) : Who is the Yeshwantrao mentioned in that letter as having gone to Bombay?—He was *jassood* (messenger) to the Maharajah.

The Advocate General said the date of the next letter was not given, but the postmark was dated 19th August 1874, and the letter had probably been written two days before that. It was as follows :—

To SOBHAGI AWATI AMEENA BI AYA.

(Writes) Sheikh Abdoola Butler, Karel.

I am well by the favour of God and by your blessings. You should not entertain any anxiety. Colonel Phayre went to Poona on the 18th ; he is to put up at Kirkee. Let it be known to you that the Diwan has been removed from office, and that no other person has yet been appointed (in his room). You should communicate what news there is (getting the letter) written by a good writer. Make inquiries about the Hazrat who was in Bombay, and bring him without fail at the time of (your) coming. You should write about him without fail. You should communicate (to me) news frequently. You have forgotten me since your departure to Poona. What can you do? It is my fate. It is the will of God. It is my luck. What can you do? You should not do so. Yesra (Yeshwantrao) Naik has gone to Bombay. Let this be known to you. Abdoola Khan has accompanied the Saheb. Pedro sends his compliments to you. Give my, as also Pedro's, compliments to your butler ; the mestri (cook) and other people also send their compliments to you. Dated 18th, 1874. Signed Sheikh Abdool. (He) sends his compliments in case they have been omitted through oversight. Send a reply to this letter without fail. I anxiously await it. What more need be written? This is (my) request.

The President : There will be copies made of that letter also.

The Advocate General (to the witness) : You say in that letter that Yesra Naik has gone to Bombay ; who is that Yesra?—It will be Yeshwantrao very likely.

Look at that letter ; who is it?—That is Yeshwuntarao.

The witness continued : When my wife came back from Poona she paid another visit to the Maharajah. She went about the 15th or 18th of the month of Ramzan. I brought the gharry for her on that occasion. A boy named Chotoo went with her. She told me what passed between her and the Maharajah on the following morning. She said the Maharajah had asked her if any reference had been made to the son that was born to him. She replied that she did not know anything about it. The Maharajah also asked her to talk over the *madam sahib* in his favour. He also said, "Can nothing be given to be eaten in order to

bring about a union of the hearts of the Maharajah and Sahib?" She replied, "Nothing should be given to the *sahib* *lagus* to eat, and if you do anything of the kind it will be very bad for you." She also said, "Do you not do anything of this kind?" After this visit my wife got Rs. 50. She said she got it from Salim. I was offered service under the Maharajah myself. My wife told me that employment would be procured for me. She did not say who told her this, or what the employment would be. No one besides my wife talked to me about getting employment under the Maharajah.

This concluded the examination-in-chief of this witness, and as it was now a quarter past four o'clock, the Court rose.

IN THE CUTCHERRY.

(FROM AN OCCASIONAL CORRESPONDENT.)

AT eleven on Wednesday, the Commission assembled, and Ameena was again brought into the witness-box. In spite of the sweet smiles and soft persuasive tones of the learned Serjeant, she did not seem to be happy, but looked as if she would be only too glad to throw herself upon the neck of Mr. Flynn, the interpreter, and confide to him all her troubles. The place being too public for such a course, she tried to carry on a gentle flirtation in an undertone with the venerable interpreter.

Serjeant Ballantine's pronunciation of Hindustani words often raises a smile upon the countenance of the Europeans present. 'Maharajah' is invariably pronounced 'Meeraja,' Akbar Ali is called 'Ackbar A'li,' and a shigram a 'shygram.' The difficulty of conducting a case in a foreign language through an interpreter could nowhere be better exemplified than in the present instance. Fortunately for the defence, Mr. Branson, who is well acquainted with both Mahrathi and Urdu, is as Serjeant Ballantine's right hand. After Ameena had been brought to tears, and then cut short in a long narrative she was about to give of her travels to England, Jodhpore and the Simla Hills, she was allowed to go down from the witness-box and seat herself upon the floor, where she indulged in hearty cry.

In the cross-examination of the witnesses there seemed to be some difference of opinion in the interpretation given by Mr. Flynn of the witnesses' answers. Mr. Melville, who is a Civilian from the Punjab, and who has an intimate acquaintance with the Urdu language, by the remarks he made, evidently showed that he differed in some minor points from the interpreter.

The space before the dais presents a scene seldom witnessed in India. The large number of barristers, solicitors sitting behind them, the crowd of reporters, the messengers passing to and fro bringing telegraphic messages and piles of papers, all combine to form a picture that will not soon be forgotten by those privileged to behold it.

A new arrival from Bombay appeared in Court today, Mr. Lee-Warner, the Acting Under-Secretary to the Bombay Government. It has been suggested that he has been sent to watch the case for Sir Philip Wodehouse.

A list of Government officers on special duty here with their clerks and retainers would fill a column. I send a list of about one-third of them:—

Chief Justice Couch.
Sir Richard Meade.
Mr. Melville.
Mr. Souter, Commissioner of Police, Bombay.
The Advocate-General.
Colonel Phayre.
Colonel Etheridge.
Captain Jackson.
Captain Portman.
Mr. Lee-Warner, C.S.
Mr. Jardine, C.S.
Mr. Walker, C.S.
Mr. Cameron.
Mr. Flynn, Interpreter.
Mr. Nowrojee, Interpreter.
Colonel Beynon.
Mr. Bulkeley and a whole host of others.

The salaries of these officers, their travelling expenses, the employment of additional clerks and messengers, law expenses, the cost of printing and reporting, the entertainment of the native princes and followers—all these items are estimated to cost the Government considerably over two lakhs of rupees.

After the cross-examination of Mr. Boevey's peon, the Court adjourned at a quarter to five.

In the evening a State dinner was given at the Residency by Sir Lewis Pelly, at which Serjeant Ballantine was present.

There was a paper hunt on Saturday morning; there was one also on Tuesday morning, during which one of the learned counsel for the prosecution came a fearful cropper at a fence.

ORIGIN ON THE STATE OF BARODA.

Now that the Baroda State is exciting so much public interest, a short history of its origin may not be out of place in these columns. In the 7th century the Gaekwars were head of a caste of herdsmen, who added to their occupation probably a much more profitable one, that of plundering their neighbours. They originally came from Sattara, but towards the end of the century they were well known as plunderers who carried on their depredations in the provinces of Guzerat, Wudwan, and Berar. It was not, however, until the opening of the 18th century that the depredations of the Mahrattas, to which race the Gaekwars belong, attracted sufficient attention at Delhi to induce the Mogul Emperor to despatch a properly-organised force against them.

In the year A.D. 1712, a Mahratta freebooter, named Khundersao Durbaree, attacked an escort

of Imperial treasure on its way from Surat to Aurungabad. Surat at this time was the most important seaport on the west coast of India; moreover, it was the port from which Mahomedan pilgrims embarked on their way to Mecca. Khunderao had great facilities for carrying on this kind of plunder, as he had established a line of military stations upon the Ghata. By these outposts he was even enabled to exact from pilgrims the "chouth," that is, the fourth part of the property they possessed. A strong Imperial force was despatched against this Mahratta freebooter, but it was entirely annihilated, and Khunderao was rewarded for his success by being invested with the title of Senaputtee by his sovereign, the Rajah of Sattara.

It was as second-in-command to this Khunderao that the founder of the Gaekwar family, Dummajee Gaekwar, first emerged from obscurity. Dummajee Gaekwar was an able man and a courageous soldier. He did not long survive his elevation, but died in 1721, and was succeeded by his nephew Pelaje. The new Gaekwar mixed himself up in the internal dissensions of the Moguls, and by a foul act of treachery succeeded in obtaining a considerable addition to his revenue. The power of the Gaekwar was now greatly increased; he was the deputy of the Rajah of Sattara; he had the right of levying 'chouth' in nearly the whole of Guzerat, and he had made himself extremely popular with the warlike classes of the province. Pelaje was assassinated in 1731. In 1732, Mahajee Gaekwar, the brother of Pelaje's successor, Dummajee II., attacked Baroda, which was then in the possession of Abhai Sing, the Chief of Marwar, the instigator of Pelaje. The attack succeeded, and from that time Baroda became the capital of the Gaekwar.

Dummajee was the Gaekwar who consolidated the Mahratta power in Guzerat and made the Baroda State of some importance. He distinguished himself by his successful incursions in Marwar and Kattiawar; he assisted in the capture of Ahmedabad; he plundered Broach and Surat, and acquitted himself with credit at the great battle of Paniput in 1761, of which he was one of the few surviving chiefs. Dummajee upon his return from Hindustan spent the remaining years of his life in giving stability to his conquests, and in making his State one of the first in India.

FOURTH DAY.

BARODA, FEB. 27.

YESTERDAY, at eleven o'clock, the Commission resumed its sitting. All the members were present. His Highness Mulharao was not in Court during any part of the day.

As on the previous days, the Advocate General and Mr. Inverarity, instructed by Messrs. Hearn, Cleveland and Lee-Warner, appeared for His Excellency the Viceroy in Council; Sergeant Ballantine, Mr. Branson, Mr. Purcell, and Mr. Shantaram Narayan, instructed by Messrs. Jefferson and Payne, appeared for the Gaekwar. Mr. Vasudeva Jagannath,

pleader of the High Court, also watched the proceedings on behalf of His Highness.

Mr. George Taylor and Mr. B. M. Wagle were present on behalf of the Ranees and the infant child of His Highness the Gaekwar.

As the case develops, the proceedings deepen in interest, and the evidence given yesterday was certainly not only very important but highly exciting. The first witness was Shaik Abdoolah, the syah's husband, whose examination-in-chief, it may be remembered, was concluded the day before. He now came up for cross-examination, but nothing of apparent importance was elicited. Sergeant Ballantine's questions seemed to be asked with the object of showing that the letters which passed between the syah and her husband were simply selections from the ordinary correspondence which passed between them whenever they were not residing in the same town, and were therefore of little importance. Abdool Rahimon, one of the principal peons in the Bombay Post-office, was called. He stated that he wrote some letters to Ameena's husband at the wife's dictation when she was in Bombay. In one of these he said there was a chit enclosed for the Gaekwar which he also wrote. In this note she asked His Highness for money, and told him that a dinner had been given at the Governor's, about which she had made some inquiries, adding that His Highness need be under no apprehension—of what, she did not say. The witness was subjected to rather severe cross-examination at the hands of Mr. Branson, but beyond the fact that he was unable to fix the time when he wrote the letters within ten months or so, nothing startling was obtained from him. Colonel Phayre's butler, Pedro, was also examined, and with the Colonel himself is one of the most important witnesses yet called. It may be remembered that in his opening address the Advocate General stated that he should be able to show on the evidence of the butler's fellow-servant Rowjee that both of these had had interviews with Mulharao on three occasions. On one of these Rowjee says, or rather will say when he is called, that the Maharajah handed to Pedro a small packet of poison. All this, however, Pedro stoutly denies. He persisted over and over again in saying that he never once visited the Maharajah, and of course therefore never received any packet. He once asked Rowjee he says for a present of money from His Highness to pay the expenses of a visit to Goa on his month's leave of absence, and that, in consequence of his request, he received Rs 60 Gaekwaree from His Highness. This, however, Pedro maintains was a general custom, and therefore he thinks it has no significance. Pedro's depositions were taken last month in Bombay by Mr. Edginton, and in his testimony yesterday he did not depart one jot from the statement he then made. The cross-examination was of that kind in which Sergeant Ballantine shows to his best, viz., getting a witness emphatically to deny statement after statement which another witness on the same side is to be called to as emphatically affirm. It was this kind of cross-examination which the then Attorney General used with such effect in the first Tichborne trial; and the circumstance was evidently in the Sergeant's mind yesterday when he remarked: "The proper way to examine this witness would be to ask him 'would you be surprised to hear?'" The Advocate General did not re-examine Pedro, but contented himself with putting in the former deposition of the witness, expressing a hope that Mr. Edginton's signature would be a sufficient proof of its authority, upon which Sergeant Ballantine said with a naïvete peculiarly his own:—"Oh, I would admit anything bearing Mr. Edginton's signature." The rumour on Wednesday evening that Colonel Phayre would yesterday be examined had attracted an eager crowd to the Court. This expectation was realised. Colonel Phayre entered the witness-box at about three o'clock. He detailed, in almost

the same words as the Advocate General in his opening speech said he would, the account of sipping the sherbet on the 9th of November last. He added, however, that he had previously felt the symptoms he then experienced, especially after taking his sherbet. So long ago as about the middle of last September he noticed a "feeling of fulness in the head" and his "eyes watered." When he sat down to write his letters he felt "stupid and sleepy." On the 9th November last, after he returned from his morning walk and sipped his sherbet he felt a "sudden squeamishness as if he was going to be sick," and so as not to be tempted again to drink it, he took up his glass and threw the contents out of the window. Part of the sherbet, however, remained in the tumbler, and Colonel Phayre then observed a black sediment in the bottom of the glass. "And from that moment in my mind," said the gallant Colonel with emphasis, "all my previous illness was accounted for." It was then that Colonel Phayre first suspected he had been poisoned. He at once sent for Dr. Seward and handed over to him the sediment for analysis. Colonel Phayre then gave an account of the visit to him of Mulharao on the same day, who, if the charge be true, must have expected to have seen his victim dying. He found him ill, and Mulharao told the Colonel that there was a great deal of sickness about, and that he himself suffered an attack brought on by eating Dewalee sweet-meats. Colonel Phayre gave his evidence with emphasis in a manly, straightforward manner, and answered the questions put to him with promptitude in a decisive soldierly style. At four o'clock the Court adjourned, and Colonel Phayre's examination will be resumed this morning.

SHAIK ABDULLAH'S CROSS-EXAMINATION.

Shaiq Abdullah, the last witness examined on the previous day, was first called and cross-examined by Sergeant Ballantine as follows —

How long have you been married?—Ten or eleven years. Have you been in the habit of corresponding with your wife when you were away from her?—Yes.

And were you in the habit of writing to each other about whatever occurred?—If there was any news regarding our house we used to write.

Or if there was anything of interest that had occurred?—Yes.

As far as you know, did your wife write to you about any matters of importance?—If it was necessary for her to write she did.

When any matter of any importance occurred, was she in the habit of writing and telling you?—Yes.

The Advocate General said the interpreter had used the same word for "importance" as he had for "necessary."

The President suggested that the interpreter should use the word "sangeen."

The witness I do not understand "sangeen."

The interpreter then repeated the question in a different form, and the witness again answered "yes."

Cross examination continued. Have you any other letters from your wife besides the one you produced?—Perhaps there are some among the papers.

During the June and July of 1873 were you and your wife together?—Yes.

Were you together in November and December 1873?—No.

Where were you and where was she?—I was at Bombay and she was at Baroda.

Where were you in June 1874?—For a few days I went to Mahabaleshwar, when I went my wife was in Bombay.

How long had your wife been ayah at Colonel Phayre's?—Six or seven months.

When did you hear of what is said to have been poison in Colonel Phayre's glass?—People talked about the matter at the bungalow when the occurrence took place.

I suppose you knew nothing about it?—No.

Do you know who the people were whose duty it was to give the sherbet to Colonel Phayre?—I don't know.

Now, I may take it that the witness was examined by Colonel Phayre on the 13th November. Do you recollect being examined by Colonel Phayre?—Mr. Boevey examined me.

Did you mention anything on that occasion of what you now say your wife had told you?—No.

When did you first mention it?—When Mr. Souter sent for me and examined me.

How came you not to mention it to Mr. Boevey?—Because I was afraid.

What were you afraid of; your life, or what?—I did not know who did it, how could I have said anything about it?

But you are not asked about who did it. I ask you why you did not tell what your wife had told you about the charm, and something to turn the sahib's heart?—Because I was afraid.

But what was there to be afraid of in saying your wife had visited the Maharaja?—Because the sahib orders were not to go there.

Do you mean his orders to you?—Not to me, because I was not in his service.

Had your wife told you that she had had orders not to go?—Yes.

When did she tell you that she had these orders?—Often, I don't remember when.

How came you to tell Mr. Souter?—He sent for me when I was in Mr. Boevey's bungalow.

But if you were afraid to tell Mr. Boevey, why were you not afraid to tell Mr. Souter six days after?—That boy who was in my service said that a gharry had been hired and they had gone.

How did you know that he had said that?—When I was taken to the sahib (Mr. Souter) the boy came there.

The boy was there you say?—The boy and the gharry-driver.

Anybody else?—Khan Sahib, and the junior Khan Sahib (Akbar and Abdool Ali), and the Rao Sahib.

Now, tell me did you find all these people there when you arrived?—No, I didn't see those persons there at that time.

Who was there when you arrived?—Akbar and Abdool Ali.

Any one else?—The Rao Sahib was there.

Any one else?—No.

What did they say to you?—First of all I was asked if I knew about this.

The Interpreter This is literally what he says.

If you knew about what?—If I knew anything about the quarters of the Maharajah.

What did you say?—I was first asked if I knew anything with regard to the Maharajah or the place of the Maharajah.

The President He means, "about the affairs in that quarter."

What did you say?—At that time I said that I did not know anything about it.

And what did they or any of them say to that?—The sahib said Do you tell the truth.'

But the sahib was not there.

The Advocate General The witness is speaking of a time when the sahib was there.

The President Yes, he is speaking about a time when the sahib was present.

Sergeant Ballantine I first asked him when he saw Mr. Souter who were present, and he said Chotoo and gharry-walla were present, and then he said 'when I first came there the two Khan Sahibs and some one else were present.'

The Advocate General That is all in relation to the time when he was first taken to Mr. Souter.

The President said the witness had better be asked again.

Sergeant Ballantine (to the witness) You told me that when you first saw Mr. Souter, Chotoo the boy and also the driver were present?—They were not there at that time.

Was Mr. Souter there at that time?—Yes, there were four persons.

Was Mr. Souter one of them?—No; there were three persons, namely, the two Khan Sahibs and the Rao Sahib—and also Mr. Souter

Do you mean that Mr. Souter was present when you were first asked questions?—Yes.

Well, when you said you knew nothing about the affairs of the palace, did they ask you anything else?—The sahib said "Do you tell the truth, don't tell a lie."

What did you say to that?—In the meantime the boy and the gharry-driver were brought there.

Who brought them?—A havildar.

And were you told it was said that you ordered the gharry?—It is the fact that I ordered the gharry.

And is it a fact that you were told that these people said so?—It is a fact that I sent for the gharry.

Is it a fact that Mr. Souter said anything of this kind, "These men say you fetched the gharry"?—I went to get the gharry.

On the question being repeated a fourth time, the witness said Mr. Souter did not say that, but they said so.

Who are "they"?—The boy and the gharry-driver.

Where have you been since your examination by Mr. Souter?—When I was examined first I was kept under a guard for three or four days.

And after that?—Afterwards I was released.

Have you been living with the ayah since?—Yes

Were you present here the day your wife was examined?—Yes.

And were you with her that night and until the following day?—No; since she was examined we have been kept apart.

Did anybody tell you what she had said?—No.

Now, in one of your letters I see you mention a person named Shabdin. You say "Yeshvuntrao Naik has gone to Bombay, Shabdin is also to go"?—That is Cazee Shabdin who lives in the city.

What was he?—He did some duty in the Gaekwar's establishment.

Was he Sirsooba?—Yes, he was on that duty.

What did you know about him?—He is a native of the country from which I come.

Do you know that he is now in the employment of Sir Lewis Pelly in the same position as he held before?—That I don't know.

SHAIK ABDULLAH'S RE-EXAMINATION.

Re-examined by the Advocate-General I made my statement to Mr. Souter at the Residency in a room on the western side. It was on the ground floor. At that time my wife was sick in Mr. Boevey's bungalow. When I made my statement to Mr. Souter, my wife had been taken to the hospital. When I was taken before Mr. Souter and examined by him, my wife was ayah to Mrs. Boevey.

You said that after you were examined you were kept under a guard for some days?—On the first day only a few questions were put to me.

From the time the sahib first put a few questions to you till you were put under a guard, had you any communication with your wife?—No.

Did you see your wife when she was in hospital?—I went to see her when I was released.

Did you visit her in the hospital?—Yes.

Did you know how long she had been in the hospital when you visited her?—About five days. On the first occasion when I went to the hospital to visit her, I saw her and spoke to her.

The Advocate-General: Perhaps I may give your Lord-

ship the dates on which the statements were taken of the ayah and her husband respectively, the ayah's was on the 18th December, and the witness's on the 19th.

ABDOOL RAHIMON'S EXAMINATION.

Syed Abdool Rahim was the next witness called and examined by Mr. Inverarity. He said My name is Syed Abdool Rahim. I am also called Rahim Sahib. I know the ayah Ameena. I have known her for a short time. I am a first-class peon in the service of the Bombay Post Office. I live and carry on my occupation in Bombay. I first made the acquaintance of Ameena the ayah about six years ago. She is not a native of my country, but her husband is a neighbour of mine. She told me that she had come to Bombay to see her madam sahib off to England. When the ayah was in Bombay I think I remember writing letters for her, more than one I believe, but I do not exactly remember. The letter produced (marked A) is in my handwriting. [Witness was told to read the letter to himself. He did so.] I wrote that letter by the ayah's directions. [Another letter produced, which was yesterday initialed by Mr. Jardine as the one which Shaik Abdulla said in his evidence he had not received.] I also wrote this one by the direction of the ayah.

Mr. Inverarity I now, my Lord, tender this second letter in evidence.

Mr. Branson (in the temporary absence of the learned Sergeant) I do not wish to make any objection, as Sergeant Ballantine said yesterday, that would give the Court the slightest impression that we are afraid of these letters being read, but I apprehend that these two letters should not be admitted.

The President But one has been already admitted. It is therefore disposed of.

Mr. Branson As to this letter now proposed to be put in, the ayah has not been examined upon any point contained in it, and therefore—

The President I suppose that the Advocate-General intends us to infer that the letter relates to the same facts which have been given in evidence. I assume that the Advocate-General would otherwise have stated to what it referred. Really, therefore, I do not understand your objection.

Mr. Branson Does the letter corroborate a statement; and if so, what statement?

The President But your learned leader withdrew his objection yesterday, and there is no distinction, except that this letter was not sent.

The Advocate-General Yes it was sent, but it did not reach her.

The Court Oh, it was sent and returned!

(Letter then put in and marked D)

Examination continued I did not remember about writing the two other letters, but I remember about this the third. It was addressed to Shaik Abdoolah batiher. I wrote that letter also by directions of the ayah. I remember the fact of having written the letter, but I do not remember the contents.

Mr. Inverarity: Did you write an enclosure in the third letter?

Mr. Branson I ask my learned friend not to lead.

The President You must be careful at this point not to lead at all.

Witness In the third letter there was a note written in the name of the Maharajah.

Mr. Inverarity What Maharajah?—I think it was Mulhar Gaekwar, but I do not remember the name.

What do you mean by saying it was written in the name of the Maharajah?—I mean addressed to him.

Cross-examined by Mr. Branson Do you understand English?—A little, not well.

Have you not understood every word of Mr. Inverarity's

questions before they were translated to you?—I can understand English, but I cannot speak it well.

Where do you live in Bombay?—In Khetwady.

How long have you lived there?—I have been living in my last house there for three or four years.

Where was the ayah living in Bombay?—In the same house, but in a room adjoining my room.

Do you know Akbar Ali?—Yes.

And his son Abdool Ali?—Yes.

Did you see them both before you came up here?—Do you mean in Bombay? Yes.—They belong to the Bombay police and they live there.

Did you see them there?—No; I am engaged night and day in my duty.

Has sent for you here?—They first sent for me.

Where did you first see them in connection with this case?—They came to the Kalbadavie Post-office.

Why did you tell me two minutes ago you had not seen them before you came up here?—First I came here on the 6th of last month, January, and on the 7th Mr. Souter examined me.

Do I understand that both of these men came to you at Bombay to bring you here?—They came to see me, but I did not see them.

Did you or did you not see them when they came to summon you from Bombay to Baroda?—No; I did not see them, but I saw a police jemadar named Ahmed Ali.

Is he a relation of Akbar Ali?—He may be. It appears so. You believe that he is?—I do not know well.

Did Ahmed Ali tell you that you were said to have written a letter to the Maharajah?—No I mentioned it. The reason I remember writing it is that in all my life I have only written one note to a Maharajah.

What was the reason?—I will explain the whole matter if you will please hear. First of all these persons enquired about me.

What persons?—The detectives.

What detectives?—I was at the office. I was not at home. Oh! the enquiries were made at your house in your absence?—Yes, they went to my house first.

What did Ahmed Ali say to you when he came?—Mr Edginton wrote a letter to the Post Office

I do not want to know how you were persecuted.—Ahmed Ali took me to the Police-office.

What did he say when he came?—Ahmed Ali did not say anything to me, but Khan Bahadoor made enquiries of me.

Where was that?—He made enquiries regarding me, but he could not find me.

I thought we had done with that long ago. What did Ahmed Ali say to you when he came? Confine your great mind to that point, please. When you were examined, who else was present?—He and I, no one else. One or two other persons were present when I went to Khan Bahadoor's house.

To the chowkey?—No, to his house.

Did Khan Bahadoor say you had written a letter to the Maharajah?—No, he enquired “Did you write anything for any ayah or what?”

Did he mention any ayah's name?—Yes, Ameena.

Did he ask you to whom you had written anything for her?—Yes, and I said “She caused a letter to be addressed to her husband, a butler.”

Did he take down your statement in writing?—No; I do not remember that.

In what month did you write the letter to Shaik Abdulla?—I remember the fact of having written that letter, but I do not remember what month it was.

What year?—Very likely last year.

What season of the year?—It was before these letters were written.

Both of these?—Yes.

How long before?—It is a fact I wrote them before, but how long before I do not remember.

Was it one month or six?—Not quite a month, but I do not remember.

Was it before or after the Holee?—What had I to do with the Holee.

You are a Mahomedan?—Yes.

You know what the Bukree Eed is?—I do not remember it, but I know what it is.

Was this letter written before or after it?—I do not know whether it was before or after it.

Then you cannot say what season of the year it was?—No, I cannot say but it was before these letters.

You know the Subarat?—Yes.

Was it before or after that?—I do not know. My attention is not confined solely to these letters, and I cannot remind it.

But you have told us all about writing to the Maharajah; you remember that?—I remember the fact of having written it, but I do not remember the day on which I wrote.

Will you swear it was not after the Subarat?—I cannot say that, because I do not remember.

Mr. Branson I have given him a fair margin, the Bukree Eed was on the 29th January, and the Subarat on the 27th December.

The Advocate General And Christmas Day was on the 27th December.

Where did you write the letters?—She came to my room to cause the letters to be written.

Was anyone else present?—People who lived there used to come and go there.

Mr. Melville At the writing of the letter?

Question repeated.

The Interpreter He spoke generally.

Witness. Mahomedans were in the habit of coming there to smoke the hookah and to drink water. Probably one or two were there.

Mr. Branson Did the ayah dictate the letter to the Maharajah in the presence of a number of people?—People were in the habit of coming and going there, and probably they were there. They may have been present for a time, but not sitting the whole time.

There was no privacy in your room?—No, there was not.

No dreadful state secrets were discussed by the ayah in your room?—No, but she caused it to be written in a note to this effect to the Maharajah “You will greatly oblige me if you will send some money for my expenses. There was a dinner given at the Governor's, where I made some enquiries. Do not you be apprehensive.”

Re examination by Advocate-General If there was any thing further in the letter you remember, tell it to me.—Nothing else.

Was the letter written during the same visit of the avah to Bombay, as the others which have been produced?—Yes.

How long have you been in the service of the Post-office?—More than three years.

What pay do you get?—Twenty-eight rupees a month.

AMEENA RE-CALLED.

Ameena the ayah, recalled and examined by the Advocate-General, said I used to know the witness Abdool who has just left the box. I lived in the same house with him in Bombay. As I stated before, I got him to write letters for me when I was in Bombay. It was some time ago, but to the best of my recollection I asked him to write three, two of them addressed to Baroda, and the third to Maha-bleshwar. I got these three letters when I had gone to Bombay in company with Mrs. Phayre last year.

[Letter D was here read to the witness.]

The Assistant Interpreter stated that he could not read

the Ghoree character, and the letter was therefore read to the witness by the writer of it. It was as follows.—

To HUZZAT SHEIK ABDoola,
Butler, residing at Baroda.

After compliments, I, Amenea Bi Aya, now residing at Bombay, represent as follows—I sent to you a letter affixing a postage label on it. I don't know whether it has reached you or not, and I am therefore under anxiety day and night. I trust you will therefore not act in this way, but you will frequently communicate the news and thereby gratify me. If you wish that I should not go there, I am ready to undertake a voyage to England. If you wish it, I shall endeavour to obtain a situation of that kind. I am in doubt as to why no letter is received from you here. I await a reply from you. If you tell me I shall go there, and it will not matter (in the least). I wrote to you for (money for my) expenses, but nothing has been received from you. Convey my best compliments also to Yeshwuntrao.

Chotoo's mother owes me one rupee. You should deduct it from her son's pay, because she has not visited me since her arrival at Bombay. You should go to, and make proper enquiry at the place there, when I am coming to take up service. I hear that he has obtained an appointment in Kewa Kanta. If such a thing has happened, it is very bad. Write to say whether you have borrowed Rs. 5 from Vingorlekar Mahomed. He comes here and duns me for the (payment of the) same. Let me know whether this is true. I do not know whether or not you have delivered the note (chitti) enclosed in my last letter to the person for whom it was intended. I labour under anxiety on this account only. Give my best compliments to Nathata. Write to say whether or not you have received the "Kirks" What more need be written? This is my request. Dated 29th March 1874

I reside in the Shetwadi in the same house as before.

(Signed) AMEENA BI AYA, Bombay.

A reply to be sent without fail

That letter was written by my direction. I remember telling them to give my compliments to Cazee, Yeshvuntrao and Salim. The Cazee is a reverend gentleman who used to come to my room to have some conversation and to drink water. He is the Cazee of Chandil. Salim is the man who used to come to the Residency twice a week, as I mentioned in my evidence the other day. In fact, Salim and Yeshvuntrao are the Maharajah's two jasoods or naiks, I don't know which they call them. I also caused to be written "I sent you a letter with a postage label upon it." The letter was written by Rahim Sahib as I have said.

Who was the person for whom the chitti endorsed was intended?—It was to Salim to be delivered to the Maharajah.

Mr. Melvill Are you sure of that answer? (To the Interpreter) Just ask her again.

Question repeated.

Witness answered I wrote that because Salim had asked me to write.

For whom was the letter intended?—For the Maharajah.

The President I understand that Mr Jardine has a clerk who can read the character in which the letter is written. He will read it.

Letter A was then read. It was as follows

To HAZRUT SHEIK ABDoola,

Butler, at present residing at Mahableshwar.

After compliments. Further The cause of writing (this letter) is as follows.—I have received your letter and understood its contents. I hope you will in like manner frequently communicate to me the news from that place through letters and thereby gratify me. Salim saw me on his arrival here, but as that is a "Raj Darbar" matter (State matter), it will be done leisurely; as opportunities

offer. I am little better. I have sent a letter there stating that I would attend on the 20th, and it is my intention to go there accordingly. I have now also commenced taking medicine. There is also less strength in my hands. Five rupees have been paid to Vazir Ma. You gave to me the letter received by you from home and then left. On reading it I found its contents as follows "The house of your father-in-law is to be attached. What place, then, should be fixed for residence?" I can give no reply about this. Formerly I told her to reside in (our) house, but she did not mind this, and lived there at her father's house. She has sent for £5 for expenses and a black sari. Even when she has money in her hands she sends for it here. I am, therefore, thrown into difficulties on all sides. Every one secures his or her object, and last I am likely to be disgraced. If a single pot, out of the pots etc., which are in the house, is lost, you will be responsible for it. You write to say that you will send Rs 10 for me. It will be well if you send the same soon that is, before the 18th. If not, it is your pleasure, I have no force on you. From Alasha Jamedar have been received Rs. 2/- on account of himself, Rs 25 on account of Raheem Saheb, and Rs 10 on account of Sha Saheb—in all Rs 60. Rs 40 remain (to be recovered), for which it is in contemplation to get a fresh bond executed. Rs 20 due to a Marwari should be paid off soon. After the payment thereof, I am to proceed thither. By (my) taking one month's leave, I have been subjected to a heavy loss. But what can be done? Owing to my illness, I could not help (doing so).

I had been to Yeshvuntrao's house. He has gone to Pandarpur on fifteen days' leave. He spoke to me as follows—"On my return I shall have arrangements made about you. The Maharajah twice or thrice enquired when the ayah would come." Salim was invited to my place of residence here. He was shown attention so far as my poor circumstances would permit. Let this be known. What more need be written? Raheem Saheb Dilhar (? Dilawar), Baba Matkar, and others send their best compliments to you.

AMEENA BI AYA, residing at Bombay.

Dated 10th April 1874.

Witness continued I have heard that letter read, it was written by my directions. The expression "Salim saw me on his arrival here" refers to his arrival in Bombay. That is the same Salim I have spoken of before, the Maharajah's servant. I met him at Yeshvuntrao's house in Bombay. I met Yeshvuntrao in Bombay as I was going to Bhau Dajee's house and I went with him to his house to eat pan-sooparee. I there saw Salim. The "Raj Durbar" matter referred to is thus. I asked Salim, "When will you give me the reward? I have had none of it yet." He replied, "This is a 'Raj Darbar' affair, it can be done leisurely." In that letter I also caused to be written that Yeshvuntrao had said to me, "On my return I shall have arrangements made about you. The Maharajah twice or thrice enquired when the ayah would come." It is true Yeshvuntrao talked to me in that way. I would not tell a lie. It is also true that Yeshvuntrao came to my house and I treated him according to my means. I gave him tea and pan-sooparee. The sentence "I have sent a letter there stating that I would attend on the 20th, and it is my intention to go there accordingly," is also true. It has reference to my going to Poona to take up service with Mrs. Boevey.

The Advocate-General I must also ask your Lordship that the letters be read which were written by her husband, so that I may ask her if she received them

[Letter B put in and printed yesterday was then read.]

Witness continued I remember receiving this letter at Poona. I was then with Mrs Boevey at Poona.

[Letter C also put in and printed yesterday, was now read.]

Witness continued I also received that letter from my husband. I received it at Poona.

Cross examined by Mr. Branson Where have you been since you were last examined?—Near or with the Khan Bahadur.

You have seen the Khan Bahadur since you were examined?—Yes, where I am in custody.

And his son?—Yes.

To you know Rao Sahib Vithul?—Interpreter First she said "I do not know him," and then "No, I have not seen him."

You remember being examined by Mr. Inverarity?—Yes.

The Advocate-General You have seen the Khan Bahadur since you were last examined, have you had any conversation with him?—No.

SHAIK ABDULLAH RE-CALLED.

Shaiq Abdulla, re-called and examined by the President, said I got a letter with an enclosure in it addressed to the Maharajah. When I was about to go to Mahableshwur I gave that note together with the other letters to my wife. By note I mean the enclosure. It remained with me, I think, three or four days. I was at Baroda in the service of Major Blakeney when I received it. I mean that I gave it to my wife three or four days after I received it. It came to me from Bombay. I gave it to her in Bombay on the eve of my departure for Mahableshwur. (To the Advocate-General) I gave it to her in Bombay on my way from Baroda to Mahableshwur. We pass through Bombay in going to Mahableshwur from Baroda. I gave it to her because I did not meet Salim, and I had no time here. I do not know what became of it.

PEDRO DE SOUZA'S EXAMINATION.

Pedro De Souza was the next witness. Examined by Mr. Inverarity, he said When Colonel Phayre came to Baroda I was in his service, and I remained in his service until the month of November last. Colonel Phayre came to Baroda about March 1873. During the period I was in his service in Baroda, I was in Baroda all the time with the exception of a few days I was at Nowsaree, and a month's leave when I was at Goa. I know Salim, the Gaekwar's servant. I used to salute him when he came to the Residency. He used to say to me "If you will come to the Maharajah's it would be well, and a gharry would be sent for you." I said "I won't go" I have received money. I was about to go to Goa, and I said to Salim "I am about to go to Goa," and I asked him to give me some money for the expenses of my journey. He brought me a sum of money. I was about to go to my native country, and he brought and gave me a sum of money for the expenses of my trip.

Mr. Melvill I understood him to say "I asked him to send me a present of money." That was, I mean the time he spoke to Salim.

The Assistant Interpreter He did not say anything about it in his last answer.

Answer repeated I said I was about to go to my native country, ask the Maharajah to give me some money for the expenses of my trip. Salim often sent for me, and he also said that money was got from "there." Salim brought the money and gave it to me. It was about ten or twelve days after I had asked him. He brought me sixty rupees, Baroda coinage, equivalent to fifty Bombay rupees. He brought it to my room at the Residency. When he brought me the money he said "The Sircar has given you this money for the expenses of the journey." (Mr. Inverarity What Sircar? Witness The Maharajah). I received the money. I was a servant in the house. I was the butler, the head servant. I waited at table. I had been twenty-six years in Colonel Phayre's service, during which time I had been fifteen or sixteen years the butler.

PEDRO DE SOUZA'S CROSS-EXAMINATION.

Cross examined by Sergeant Ballantine Was your deposition taken at Bombay?—Yes at Bombay.

Before a gentleman named Edginton?—Yes, Mr. Edginton Did you tell Mr. Edginton all you knew on the subject?—Yes.

Was Salim the only person who asked you to go to the Gaekwar?—Salim was the only person.

How long had you known Salim?—Since I came to Baroda. He was in the habit of coming twice a week to the Residency with the Maharajah.

Did Salim say why he wanted you to go to the Maharajah? He told me "It would be well for you if you go there." He did not say why.

You quite declined, and never did go?—Yes, besides, that I was very busy.

Is it a fact that you never went?—I never went.

Where have you been staying since you gave your evidence to Mr. Edginton?—I was in the service of my master when I gave the deposition.

Have you removed from there since?—It is a month and eight or ten days since I have been brought to this place.

Are you being taken care of by anybody?—I am near the Khan Sahib in the tent.

Do you know a man of the name of Rowjee?—Yes, I knew him as a servant at the bungalow. I knew him as Rowjee

How long have you known him?—Since I came to serve at the bungalow. He was not there when I came.

Were you intimate with Rowjee?—No. On terms of speaking with him, but there was no particular friendship.

Did Rowjee ever ask you to see the Maharajah?—No.

You say he never asked you to go, I need hardly ask you did you promise to go? I dare say the question seems rather foolish, but I must put it for a purpose. Did you promise to do so whether you were asked or not?—I did not promise

Did you ask Rowjee to go with you to the Maharajah?—I did not say anything to Rowjee except about the payment of the sixty rupees I received

Did Rowjee and you ever arrange to go to see the Maharajah?—No, not I.

Did you and he accompany Salim to see the Maharajah? I never went there.

Did you see Yeshvuntrao at the palace?—How could I see him when I did not go there at all?

I am obliged to put this for reasons. Did Yeshvuntrao take you to the Maharajah?—Never.

Did the Gaekwar ever speak to you in Rowjee's presence?—No, I never went to him, and he never said anything to me.

I understand you to say that you never did go to the palace?—Never

And never had any communication with the Maharajah? Never.

Then if Rowjee says you have done so, it is not the fact?—That is so.

never went.

Did you go to Goa at anytime?—Yes, on one month's leave.

When you returned, did you go with Rowjee to the palace to see the Maharajah?—No, I did not go.

Did you ever—I must ask you this question—receive a small paper packet or any packet from the Maharajah?—How could he give me anything when I did not go to him?

As a matter of fact, did you receive that?—No.

I think now that is enough of this

The President Yes, I think you have put it sufficiently for our purpose.

Sergeant Ballantine Were any of these questions asked

you by Mr Edginton?—What he asked me and what I answered has been taken down in writing.

Did he ask you if you had ever received anything from the Maharajah?—Yes, he asked me, and I said I never went.

You gave the same account as you have given to day?—Yes, I said I did not go.

Do you know Akbar Ali?—Yes, I know the Khan Bahadoor.

Has he asked you any question since you were examined by Mr. Edginton?—First of all I made a statement to the Khan Bahadoor.

Was that the statement you have made to-day?—Accordinging to what is put down in my deposition.

Were you asked whether you had been to the Maharajah?—Yes, by the Khan Bahadoor I was asked.

Was anything said to you about being better if you told the truth?—I was told to tell the truth.

Were you told it would be better for you if you told the whole truth?—I was told to tell everything that was true.

Were you told it would be worse for you if you did not?—No, I was merely told to tell the truth.

Were you told anything that Rowjee had said about you?—No.

Did you know that Rowjee had said anything about you? No, I did not.

The Advocate-General My learned friend agrees to take the date of the examination as the 5th January 1875 at Bombay. I will put in the statement if my learned friend has no objection, and I suppose he will admit the deposition is genuine. It is signed by Mr. Edginton.

Sergeant Ballantine I have no objection. I would admit anything bearing Mr. Edginton's signature.

The depositions referred to were here put in and read. They were as follows —

Pedro DeSouza, Native Christian, states—I am about 37 years of age, and have for more than twenty-five years past been in the service of Colonel R. Phayre, the late Resident at Baroda. I have been serving that gentleman as his butler for the last fifteen or sixteen years, and before that I filled several situations of different kinds in his household. When Colonel Phayre was appointed to the office of Resident at Baroda, which was, I think, in the month of March 1873, I accompanied him to that place, lived in the Residency, and served him there from that time until the month of September last, when I obtained leave of absence from him and proceeded to Goa, my native country. I left Baroda on the 3rd October last, went to Goa, remained there about a fortnight, and returned to Baroda on the 3rd of November, one month after my departure. I know one Salim, a Mahomedan, who resides at Baroda, and is a jasood in the service of H. H. the Gaekwar. I have known this man Salim from the time I first went to Baroda with Colonel Phayre, as above stated. He used to come to the Residency twice a week regularly during all the time I stayed there. The Gaekwar always came twice a week, on Mondays and Thursdays to pay a sort of official visit to the Resident, and on these days Salim always preceded His Highness to give notice of his coming. Salim always brought with him on these occasions a tray of fruit as a sort of nuzeran or tribute of respect. In the month of August last when I first thought of obtaining leave from my master to go to Goa, I was short of money, and on seeing Salim at the Residency one day I said—"I am thinking of going to my native country for a month, but am badly off for money, my wife is pregnant, and the expenses on her account and for travelling will be heavy; will you entreat the Maharajah to give me some money for this purpose?" Salim replied that he would speak to the Maharajah and bring the money. No particular sum was named by either of us. I made this request to Salim because I had heard that the servants of previous Residents had obtained similar favours from the hands of the Gaekwar.

Salim himself had told me this many times before I made my request to him. About a fortnight after I had so spoken to Salim, he came to me in my room at the Residency and said—"The Maharajah has sent you these rupees. I told him what you said." I thanked him very much, took the rupees he offered me, and he went away. I counted the rupees as he gave them to me and said—"Here are sixty rupees of Baroda currency, which are equal to fifty Bombay rupees." Two or three days after this, or on his next visit to the Residency, Salim met me in the compound of the Residency and said—"You come and see the Maharajah. If you will agree to come, I will bring a carriage to take you." On hearing this I said—"I will never come to the havelee (*i.e.*, palace). He replied—"If you cannot come now I will bring a carriage for you whenever you wish to come." To this I again said—"I will never come." After my return to Baroda from Goa I never saw Salim except in passing, and I had no speech with him other than to say "salaam." I positively declare that I never received any other gift from the Gaekwar than this one of Rs 60 sent to me through Salim, and that I never had any conversation with Salim about my own affairs or in connection with the Gaekwar excepting on the occasion mentioned. I never went to the havelee or spoke to the Gaekwar and I never had any correspondence with him either directly or indirectly, other than that above detailed. Further I say not.

The mark † of PEDRO DESOUZA.

Taken on oath and duly acknowledged and signed by Pedro DeSouza in my presence, this 5th day of January 1875

(Signed) A EDGINTON, J.P.,
Deputy Commissioner of Police, Bombay.

The Court then adjourned for tiffin.

When the Court resumed its sitting after tiffin the Advocate-General said The next witness I shall call will be Colonel Phayre, and perhaps your Lordship will ask in what manner his evidence is to be interpreted to His Highness the Maharajah and Sir Dinkur Rao.

The President replied that His Highness the Maharajah and Sir Dinkur Rao did not wish to have it interpreted as the examination was going on. They would be satisfied to have it interpreted afterwards, and Sir Richard Meade and Mr Melvill would give some explanation as the case went on.

COLONEL PHAYRE'S EXAMINATION.

Colonel Phayre was then called, and having been sworn by Mr. Jardine (the Secretary to the Commission) said My name is Robert Phayre. I am a Colonel in the Bombay Army, Companion of the Bath, and an Aide-de-Camp to Her Majesty the Queen. I arrived at Baroda first on the 18th March 1873. I arrived as Political Resident. The Baroda Commission commenced its sittings at the beginning of November 1873, and continued till about the 24th December 1873. In March 1874 Mrs. Phayre left Baroda and went to Bombay on her way to England. Her ayah Ameena accompanied us to Bombay. I returned to Baroda from Bombay on that occasion after three or four days. I left the ayah behind in Bombay. She had leave for a month. When I was in Bombay I was staying at General Gel's. I don't recollect if I paid any visit to Government House on that occasion. I went to Nowsaree from Baroda with the Gaekwar on the 2nd of April. I now recollect that when I was in Bombay I did go to Government House. I went to tiffin. Mr. Boevey did not accompany me to Nowsaree; he was in the Nowsaree district on boundary duty, and had been there for some time. He joined me at Nowsaree afterwards. I remained at Nowsaree until the 16th May 1874, and returned to Baroda on that day. His Highness the Gaekwar came a day or two afterwards. I came ahead to

make preparations for his reception. I remained at Baroda from the time I returned from Nowsaree till the time I was relieved by Sir Lewis Pelly, with the exception of one or two slight absences on duty. His Highness the Gaekwar also remained at Baroda from May until I left. It was the habit of His Highness to visit me officially at the Residency twice every week, on Mondays and Thursdays. On those occasions up to the time he went to Nowsaree, His Highness was often accompanied by Rao Sahib Poosboohoy and Govindrao, after we returned he often came alone. He always came accompanied by a cavalry escort. I knew those of the escort who always attended His Highness. Whenever Yeshvuntrao was in Baroda he accompanied His Highness, but sometimes he was away on leave. Another was Mahdavrao Kale and a third the Arab sower Salim, and there was also a son of Yeshvuntrao's. I always noticed these people in attendance on His Highness. They were habitually in attendance, at Nowsaree also. My office in the Residency was in a detached building on the west side of the large block of buildings. This detached building is connected with the main body of the house by a covered verandah. In the detached building there is an ante room, my private office, and a bath room. The ante-room was where my native Assistant used to sit, adjoining it was my private office, and adjoining that the bath-room. The ante room is separated from the verandah by a dwarf wall, and you have to go down two or three steps. Any one standing in that verandah can see easily into the ante-room, and also into my office if the door is open. The peons at that office sat on a bench in the verandah at right angles to the dwarf wall. The peons usually in attendance were Rowjee havildar and the jemadar Nursoo. They never attended anywhere else. Cureem was also there in attendance on Mr. Boevey. It was Govind Baloo's particular duty to attend my office. Other peons swept the room, but it was his duty to see that everything was ready for me. I dressed in my private office. I am an early riser, and it was my habit to go out every morning for a walk or ride, and on my return it was also my habit to take a glass of sherbet prepared from pummaloos. It was the duty of one of the house servants to prepare this sherbet for me. Abdoola generally prepared it. Abdoola was also a chowkeydar. The sherbet was generally placed on a washhand stand in my private office. My washhand stand was in the far corner of the room, on entering, to the right front. It could be seen from the verandah when the door was open. Previous to the 9th of December last, I had been ailing, from about the middle of September. I remember about the time of the Gunputtee festival I was suffering a good deal as if from a very bad cold, and I had also a boil on my forehead. I did not get rid of the boil for I should think three weeks altogether. Dr. Seward, the Residency Surgeon, attended to me at this time. He used to dress the boil every morning. Some of the plaster for dressing the boil was on a dressing table in my private room, a part on a side table, and I think I shifted a part of it on to a clock stand above the dressing table. The boil lasted three weeks, and after that I had a feeling of fullness of the head, and my eyes watered. I used to sleep out at night, and I thought I must have got malarious fever in this way. I also began to wonder whether the pummaloos sherbet was made of proper pummaloos. I first began to think about the pummaloos about the time I had the boil. I remember going to an adoption ceremony at Govindrao Boevey's house on the 6th November. I went in the afternoon. On the morning of that day I did not take the whole of my sherbet. I took a sip or two of it and threw the rest away. On that day I did not feel at all well. I was writing a good deal with Mr. Boevey that day, and I felt very stupid and sleepy. That day when Mr. Boevey went to tiffin, I got into an arm-chair and slept heavily for

about half an hour. This was not an usual thing for me to do unless I felt tired during the day. On the next day I took a little of my sherbet just as on the day before, and I felt very much the same symptoms as on the previous day, only perhaps a little worse. I did not call in Dr. Seward on either of these days. Dr. Seward had spoken to me about not looking well before. On the 9th of December I left the house a little before 6 o'clock, I think, in the morning. I was always a little earlier than usual on Mondays. I returned at 5 minutes to seven, and as I was coming up the approach to the Residency from the westward, Rowjee havildar came along the verandah to meet me and made two or three salams. It was unusual for him to come to meet me in this way. Generally at that early hour no one was present. I saw no one else about. There was no one in or about my office room when I got to it. There is a door to that anteroom from the compound as well as from the verandah, and I entered from the compound without going through the verandah at all. When I went into the office room the pummaloos sherbet was there. It was placed on the washhand stand to the right-hand side as I approached it. As far as I can recollect, it was close to the basin. The door being open it was in a position to be visible from the verandah. It would also be visible from the verandah as I went to take it. I went up to the washhand stand, took the tumbler of sherbet in my hand, and took two or three sips. I placed it again on the washhand stand, and then went to the table to write a letter to send by the mail that morning. I wrote for about 20 minutes or half an hour, and then felt a sudden squeamishness as if I were about to be sick. The thought occurred to me at once it must be the sherbet that is always disagreeing with me, and I got up, went to the washhand stand, took up the tumbler, and pitched, or tried to pitch, all the contents out of the window, in order that I might not be tempted again to drink it. The window through which I pitched a portion of the contents opens on to a verandah. It is rather a wide verandah, and then comes the grass of the compound. I didn't pitch away all the contents of the tumbler, and as I was replacing the tumbler on the washhand stand, I saw a dark sediment collect at the bottom, and part of it pouring down the side of the tumbler. I held up the tumbler and looked at it, and the thought occurred at once to me that it was poison, and from that moment, in my mind, all the previous illness was accounted for. I then put the tumbler down again, and I went to the table and wrote a note to Dr. Seward. I wrote this note about half-past seven o'clock I should think. I don't remember to whom I gave the note to be taken to Dr. Seward. I called a man and told him to take it to the Dr. Sahib. I sat waiting for Dr. Seward and felt sickness and a dizziness of the head, as if my head was going round a little. It was about half or three-quarters of an hour before Dr. Seward came. On his coming I made over to him the tumbler with the remains of the pummaloos sherbet in it, with the request that he would analyse it and make a report to me about it. I described my symptoms to Dr. Seward. Dr. Seward remained with me for about ten minutes and then went away with the tumbler. I asked him not to let any body see it, as I was not sure about it. After Dr. Seward had gone, I went and dressed for the Maharajah, as that was the day of his usual visit. The Maharajah came about half-past nine o'clock, which was his usual hour. Between my giving the tumbler with the remains of the sherbet to Dr. Seward till the time of the Maharajah's arrival, I did not receive any communication from Dr. Seward. I did not mention my suspicions of poison to any one but Dr. Seward. When the Maharajah came, I received him as usual, and led him into the drawing-room, and we sat down. I asked His Highness about his health, and he said that he had not been very well, and that there was a good deal of fever about, and he thought he must have eaten too many sweet-meats of the kind usually made at the Dewallee. He also

said that he had headache and a slight pain in his stomach, but he was well now. The interview was not a long one, and when I got into the verandah to escort His Highness to his carriage, there was Yeshvuntrao with the usual tray of Dewaliee sweetmeats, and His Highness pointed out to me the particular sweetmeat which he considered had disagreed with him. I then took leave of His Highness and went back into my room. After breakfast I wrote to Dr Seward.

The President Was this before or after His Highness came.

The witness After His Highness left After he left I took my breakfast, and after breakfast I wrote to Dr. Seward.

The Advocate General here said it was now past four o'clock, and he had a good deal more to ask Colonel Phayre, but that this would be a convenient time to break off.

The Court then rose.

FIFTH DAY.

BARODA, FEB 28

YESTERDAY at eleven o'clock, the Commission resumed its sitting. His Highness the Gaekwar was present, but the Maharajah Scindiah was absent through illness.

As on the previous days, the Advocate General and Mr Inverarity, instructed by Messrs Hearn, Cleveland, and Lee-Warner, appeared for His Excellency the Viceroy in council. Sergeant Ballantine, Mr. Branion, Mr. Purcell, and Mr. Shartaram Narayan, instructed by Messrs Jefferson and Payne, appeared for the Gaekwar. Mr. Wassudeo Jangonath, pleader of the High Court, also watched the proceedings on behalf of His Highness.

Mr George Taylor and Mr. B. M. Wagle were present on behalf of the Ranees and the infant child of His Highness the Gaekwar.

The evidence yesterday was again of the highest importance and interest. Colonel Phayre further described his symptoms, and his consultation with Dr Seward. The result of Dr. Seward's report was of a nature which, the Colonel says, left no doubt on his mind that an attempt had been made to poison him. He at once telegraphed to the representative of the Government at Poona, and he also arrested four of the Residency servants. Colonel Phayre then gave an account of the Maharajah's bi-weekly visit to him on Thursday, the 12th November. On this occasion His Highness was accompanied by his Dewan Dadabhooy Nowrojee, which, it seems, was not a common occurrence. Between this visit and that of the previous one, the news had reached both the Gaekwar and his minister—so they both told him—of the attempt on the Resident's life, and they expressed great regret that any "bad man" should do such a thing and promised every assistance to find out the culprit. A Durbar *yad* to that effect was subsequently sent to Colonel Phayre. It was then shown that at the request of Dr Gray, the Government Analyst, a part of the chumman on which the poisoned sherbet fell was scraped up and sent for analysis, with what results will of course be heard when Dr. Gray is in the box. There was quite a flutter when Sergeant Ballantine rose to cross-examine the principal personage on one side of this now celebrated "Baroda affair". It seemed at first as though the learned Sergeant intended to obtain from the ex-Resident an account of his career with a view of injuring his character, which would have been very annoying to an officer and a gentleman who, as he said, had been exonerated by a Government which had defended his conduct in the whole matter referred to. The Advocate-General naturally took exception to the learned Sergeant travelling to Scinde and Upper Guzerat, and pointed out to the Commissioners that in the Notification appointing them they were especially desired to confine their enquiries to the charges against the Gaek-

war. Sergeant Ballantine explained that he was merely asking the questions in order to fix dates, and the President ruled that he had a perfect right to do so. The cross-examination, therefore, proceeded, affording a treat to a crowded Court, but evidently to the discomfiture of the Colonel. No native witness was pressed so hard by the learned Sergeant as was Colonel Phayre in regard to his relations with Bhow Poonakur. This was in consequence of an extraordinary letter written by the Colonel to Dr. Gray, the Analyser, informing him that he (Colonel Phayre) had received "secret and confidential" information that the sediment in the sherbet was composed of arsenic, diamond dust, and copper, adding "the importance of verifying this is obvious". Sergeant Ballantine wanted to know who it was that had given this "secret and confidential information". At first the Colonel did not know, and it was not until he had been appealed to as "an officer and a gentleman," man of "honour and education, and gently reminded of his oath, that he confessed it was Bhow Poonakur. Altogether it was a severe ordeal for Colonel Phayre, and, all things considered, he kept his temper remarkably well.

Dr. Seward was the next witness. He is every inch the orthodox "medical witness". He gives his testimony in an honest, straightforward manner, with the usual professional care and modesty. He did not, however, say much more than the public are already acquainted with, though he pointed out a rather important fact which Colonel Phayre seemed to have overlooked in giving his evidence, viz—that the Colonel told him that he had heard of attempts or that there would be attempts to poison him. At a convenient stage in Dr. Seward's examination, the Court adjourned until Monday morning, when this witness will give the result of his analysis of the sediment found at the bottom of the Colonel's tumbler of sherbet.

At the sitting of the Court the President said His Highness the Maharajah Scindiah, I am sorry to say, is unwell and unable to be present, but we shall take care that he is furnished with notes of all the evidence taken.

Sergeant Ballantine, on behalf of the Advocate General and himself, replied We both very much regret to hear His Highness is unwell, but I have no doubt he will be fully informed of all that takes place.

The President There is another matter which is perhaps accidental, but in the notes which have been furnished to us of yesterday's evidence, there is a very considerable omission of a portion of the evidence of the ayah when she was re-called. Comparing these notes with ours, there appears to be a considerable omission.

The Advocate General I have not yet examined the notes taken by the short-hand writers yesterday.

The President It is on page 28, where the ayah was recalled. It may have been from some part of the notes having been accidentally left out in some way in the transcribing.

The Advocate-General As there are short-hand writers on both sides, I have no doubt they will be able to correct each other.

Sergeant Ballantine, then reading from the report of the TIMES OF INDIA, said This is it, I think, will your Lordship kindly correct me if I am wrong?

The President Is that in the printed copy?

Sergeant Ballantine That is in the TIMES OF INDIA copy.

The President Ah' one in the Bombay Gazette report. The whole first portion of the ayah's examination when she was recalled has been omitted. It looks as if the short-hand writer in writing out his copy had omitted a page.

Sergeant Ballantine That is one of the advantages of the suggestion I made at the beginning that we should have two sets of reporters.

Mr. Jardine (the Secretary) said he had that portion of the evidence on his notes.

The President In the printed copy of the notes that has been sent to us that portion had better be reprinted afterwards, to have it correct.

The Advocate-General We will take care that is done.

The President then said that he thought it would be better to have the evidence of Colonel Phayre interpreted to H. Highness the Maharajah and Sir Dunkur Rao as it was given.

Sergeant Ballantine There will be a great many documents put in the course of the examination. It will be impossible to translate all of them.

The President We must do what we can as we proceed.

The Advocate-General I would ask if Colonel Phayre could not be accommodated with a chair to-day. It will be quite convenient if that witness-box is removed and a chair put in its place.

The President said this might certainly be done.

The Advocate-General I understand from the reporter with whose notes your Lordship was supplied, that he has short-hand notes of that part of the evidence, but through some unfortunate blunder that part of his notes when sent to the printing-office was not set up. So we will see that part of the evidence re-printed.

The President I thought that would be so.

The Advocate-General My learned friend, Mr. Inverarity, has called my attention to another mistake at page 27 (*Bombay Gazette* report), when the witness was asked whether he went to the Oomercarry chowkey, and the answer is "yes." My recollection, as well as that of my learned friends, is that the answer was "no," I went to the Khan Bahadur's house."

Sergeant Ballantine My learned friend is right; there is that mistake. Hitherto the reporters have been very correct.

COLONEL PHAYRE'S EXAMINATION—Continued.

Colonel Phayre was then called.

The Advocate-General Colonel Phayre, we had yesterday proceeded to that point on the 9th of November when His Highness had visited you, and you had written a letter to Dr. Seward after breakfast. After the visit of the Maharajah and before you saw Dr. Seward, had you mentioned your symptoms to any one?

The witness I had mentioned them to my assistant, Mr. Boevey.

The witness continued I saw Dr. Seward again when he returned, which was, I think, between 11 and 12 o'clock, but I had written him a letter in the meantime.

A letter is shown to the witness.

This is the letter.

The Advocate-General It purports to be written at 11 a.m., on the morning of the 9th November. I propose to put in this letter. It is Colonel Phayre's statements to his medical adviser of what his symptoms were at the time. My learned friend does not object to putting it in.

The Advocate-General then read the letter, which was as follows —

(Confidential)

Baroda, 9th Nov., 1874, 11 a.m.

MY DEAR SEWARD,—With reference to the circumstances which I mentioned to you this morning, together with the symptoms which I described to you, and the contents of the tumbler which you took home with you, I should feel much obliged if you would kindly give me a professional opinion as to the nature of the contents of that tumbler, whether poison or not.

Although I only took two or three sips of the pummelo juice which the tumbler contained, I felt within, about half an hour as I described to you, a most unusual sickness of stomach, accompanied by dizziness in the head, and of

sight, producing confusion of thought, also a most unpleasant metallic taste in the mouth with slight salivation, such as I have never experienced till within the last few days, and which I attribute partly to a slight attack of fever, which had, however quite gone off, and partly to an idea that the pummaloes from which the juice daily placed on my table had been extracted were not fresh ones.

I now, however, attribute all of these symptoms, especially those of this morning, to entirely different causes in fact I now believe that for the last few days small doses of poison have been introduced into the juice, and that had I drunk the whole tumbler off to day I should have been very ill indeed.

The confused state of my head has often surprised me of late, because for the last six weeks I have abstained in *toto* from wine and beer, &c., except once or twice when friends dined at the Residency, and have found myself all the better for it.

My general health is, as you know, most excellent, and, therefore, the symptoms which I have described to you are, I feel sure, the result of unnatural causes.

I never dreamt of poison. Otherwise I should not have thrown away so much of the contents of the tumbler which I gave you this morning.

It was only after doing so, and when I was replacing the tumbler on the table, and saw the sediment at the bottom that I for the first time suspected foul play.—Believe me, d.c.

R. PHAYRE, Colonel.

The letter was put in and marked F.

The witness continued I saw Dr. Seward again about half or three quarters of an hour after writing that letter (that would be about half past eleven or twelve o'clock), but Dr. Seward had not seen the letter at the time it had missed him. When Dr. Seward came to me he communicated to me the result of his examination of the liquid he had taken away in the tumbler. He told me that he had detected arsenic in it, more than sufficient to have killed me had I taken it all. Upon receiving this information from Dr. Seward I gave orders to ascertain who had been to my room that morning, and I commenced then my enquiry amongst the servants of the Residency. I telegraphed to Government at once that an attempt to poison me had been made. (A paper is handed to the witness) This is the draft of the telegram I sent. It is in my own handwriting.

The Advocate-General read the telegram, which was marked G, and put in as evidence. It was as follows —

Telegram from Colonel Phayre, Resident, Baroda, to the Private Secretary, Gunneah Khind, Poona.

Baroda, 9th November 1875.

Bold attempt to poison me this day has been providentially frustrated. More by next post.

The witness continued I despatched the telegram after Dr. Seward had communicated his opinion to me. That would be between one and two o'clock. I kept the enquiry that was being made quite secret. The servants generally knew that this enquiry was being made, but I did not allow any outsiders in. Every one in the Residency knew it. I think there were some servants placed in confinement by me that day. If I had the proceedings, I could tell. (The proceedings were handed to the witness.) On the 9th I put in confinement Rowjee Havildar, peon, Govind Bapoo, hamal, Yellapa, hamal, and Luximon, peon. It must have been in the evening that these four persons were put under arrest. The other servants remained at large. I know as a matter of fact that it was known in Camp on the 9th that an attempt to poison me had been made. I have directions that the remainder of the sherbet I had sent to Dr. Seward should be sent to the Government Analyser, and I continued my enquiries with a view to ascertaining the persons by whom the poison had been introduced into my sherbet.

My enquiries lasted several days. We carried it out steadily for the first four days at least. Mr. Boevey and I made the enquiries. After seeing the Maharajah on the 9th, I saw him again on the following Thursday, the 12th. He came to call, that being his usual day. When His Highness came to see me he was accompanied by his minister, Mr Dadabhooy Nowrojee. It has not been customary for His Highness to be accompanied by his minister when he came to see me. When His Highness came to see me, he remarked that he had heard a report that an attempt had been made to poison me. I understood him to say that he had only heard the report on the previous day, the 11th. He said he had heard that an attempt had been made to poison me, and he had resolved to speak to me about it that morning. He then remarked that I had said nothing about it to him when he came to visit me on Monday. I told him that I had not, and I then described what had taken place on that day. Mr. Dadabhooy observed that he had heard the report on the 10th, but did not believe it, but that on hearing it repeated with greater force on the 11th, he believed that the attempt had been made to poison me. I remember the Maharajah expressing his surprise that I had not taken the emetic that Dr. Seward had recommended to me. Nothing further passed between us that I can recollect. I think it was on that day that Mr. Dadabhooy asked me if I was making enquiries, and I said "yes." He then said he hoped I would be successful in finding out the persons who had made this attempt. I received a *yad* from the Durbar in relation to this matter, but that was three or four days after at least. (A *yad* is shown to the witness.) This is the *yad*.

Sergeant Ballantine. You said three or four days, and then you added "at least," will you please finish the answer.

The witness. I mean that I received it more than three or four days after, I received it on Saturday evening.

The Advocate General (to the witness) You mentioned to us yesterday that you threw the major part of the contents of the tumbler of sherbet out of the window into the verandah. Did you afterwards, at the request of Dr. Gray, Analyser to Government, scrape up a portion of the chunam at the place where you had thrown out the sherbet?—Yes.

Was that request of Dr. Gray made directly to you or was it through Dr. Seward?—I rather think it was through Dr. Seward. (Witness is shown a letter.) Yes, this is the letter, it was through Dr. Seward. In consequence of that, I myself went and scraped up as much as possible and sent it to Dr. Gray. Six others were with me. As far as I recollect, I sent it myself, but that will appear in the correspondence. It was scraped up in a teaspoon by a puttawalla in my presence. I sent the matter so scraped up to Dr. Gray with the letter produced.

The letter is as follows —

Baroda, Nov. 16, 1874.

SIR.—In consequence of the opinion expressed in your demis official of the 13th instant to Dr. Seward's address (received on the evening of the 14th inst.), I yesterday morning scraped together from the chunam floor of the verandah as much of the deposit as could be found on the spot where the contents of the poisoned tumbler fell, and I enclose the sand scraping here with the hope that they may be useful in leading you to a decision as to the other ingredients which were contained in the poisoned tumbler.—I have, &c.,

R. PHAYRE, Resident.

Examination continued Either I or my native assitant sealed up the packet. I do not remember which, but it was done in the office. I afterwards received the report or letter produced from Dr. Gray.

That is my crest. I think I reduced into writing a statement on the 16th November. This is the statement which is produced.

(Statement produced. It was substantially the same as evidence now given.)

As I said yesterday, I was suffering from a boil. I dressed it with collodium, but I did not apply it properly. I made a plaster of lint and it stuck so hard that I had to get some warm water to get it off, and it took so much trouble to get it off that I began to think I had done wrong. It pained me for a considerable time. I got it off at last, and I told Dr. Seward about it. When I was taking it off, I was standing near the collodium between the wash hand stand and dressing-table in my private office. It was, I should suppose, between eight and nine o'clock in the morning. That was a time when servants and peons were about, and they were standing outside my office.

COLONEL PHAYRE'S CROSS-EXAMINATION.

Cross-examined by Sergeant Ballantine I just want to get two or three dates (Colonel Phayre, I think it was the 18th March when you came to Baroda to take the position to which you had been appointed?)—Yes.

Where had you been previous to this appointment? What appointment did you hold?—I had just come from Pahlumpur.

Where you held an official appointment?—Yes.

Is that in Scinde, or where is it?—No, it is not in Scinde. It is in North Guzerat.

What was your position there?—My position was that of Political Superintendent.

How long did you hold that?—A very short time—six weeks, I think.

Did you hold any official appointment previously?—I have had a number of appointments.

What was the one previous to that?—Political Superintendent and Chief Commandant of the Frontier Brigade in Upper Scinde.

When did you quit that office?—I quitted that office to go home in 1872, the latter end, to go home or leave for six months.

Does that imply, Colonel Phayre, that you quitted of your own accord?—What do you mean?

I mean you have said that you were going home on leave?—Yes.

Did you return to your appointment?—I did not return to it.

Was your appointment cancelled, or what?—No, it was not—(after a pause)—cancelled.

To avoid using another term —

Colonel Phayre (interrupting) Oh! pray use the word first in your mind I have nothing to conceal.

Sergeant Ballantine Oh! but it may be the wrong word. Your appointment was under the Government of Bombay?—Yes, under the Government of Bombay.

Have you in your possession a document terminating that appointment?—I do not know if I have or not. I have the final resolution of Government exonerating me, and defending my conduct in the whole matter.

Have you a document removing you from the appointment under the Bombay Government?—I do not know that I have. I may have, but I do not know. I may have it.

I shall have to ask you presently whether you were aware that the Gaekwar was in possession of that document or of a copy of it?—No, I was not aware of it.

Nor his minister it is the same thing?—Nor his minister It was a Government document, and I do not see how they could honestly get it.

Honestly or not—everything in this world is not honest you know—did you know they had it?

The President Allow me to suggest to you, Colonel Phayre, only to answer the questions put to you.

Sergeant Ballantine I can assure you that I do not wish —

Colonel Phayre (interrupting) I do not want any apology.

Sergeant Ballantine I do not make one. As you make

that observation, I must ask the Court to prevent you making these observations. Honestly or not, it is not for you to decide. Now, Sir, honestly or not, did you know they possessed such a document?—It would have come through the Resident if it had come properly.

The President We are again getting away.

Sergeant Ballantine Very much away. Now, did you know they had such a document?—No.

Have you never heard that he had?—No.

Have you not heard that it was shown by him or by his minister to Sir Lewis Pelly?—No.

Will you cast your eye down that paper and tell me—

The Advocate General I wish to take your Lordship's opinion whether thus is a matter before the Commission. The Commission is not here to enquire into anything done in Colonel Phayre's official capacity as Political Agent and Chief Commandant of the Frontier Brigade in Upper Scinde, and the relations between the two States are immaterial to this enquiry. I am entirely in the hands of the Commission. If they think it desirable to travel so far as the frontier in Upper Scinde, of course I have nothing to say.

Sergeant Ballantine I did not ask this question without due consideration, and without considering also the ground upon which I should put it in the event of its being objected to, as I contemplated it was not impossible it would be my purpose to prove that the Gaekwar had full knowledge of the terms of this document. And I propose after to use an argument showing the great improbability of his doing that with which he is charged, and that in the course he adopted in relation to Colonel Phayre, he could not have thought there was the slightest necessity for doing what he is stated to have been done. That is the only ground on which I wish to put it. As your Lordship knows, I might have put it on another ground, but I only put it as an illustration that His Highness had a knowledge of the matter. Whether or not Colonel Phayre was a discreet man in his relations with the Gaekwar, is also a way in which I might put it. But I do not wish to put it that way, or as whether or not the Colonel's previous character was one which would support the idea that he was not distrustful. I apprehend, however, that that is another point upon which I might ask permission to proceed with this examination.

The Advocate General I would call attention, my Lord, to the terms under which this Commission is appointed. In the notification appointing this Commission it is said that the "Viceroy and Governor-General in Council hereby declares his desire that you shall not extend your enquiry to other matters than the offences imputed to His Highness Mulharji Gaekwar as aforesaid, and that you shall not permit any such other matters to be submitted to you for consideration or enquiry." It was upon that part of the notification that I dwell in calling attention to the terms on which the Commission was appointed. I leave it entirely to the Commission to say whether or not any matters of this kind should be given. If such matters be introduced, it must be the act of my learned friend.

The President I think Sergeant Ballantine is entitled to go into it for the first purpose he mentioned. He can go into it upon that ground.

Sergeant Ballantine That is really the only ground upon which I wish to go into the matter. I have no desire to impute anything against Colonel Phayre. I will only ask you, as far as your memory goes, in that a fair copy of the document?—I really cannot say. It is marked "private," and I never knew an official document so marked.

Do you or do you not believe it to be a fair copy?—I do not.

Can you tell me in what way it is incorrect?—I do not recognise it at all. If I saw the printed Government resolution I could recognise it, and the complete reply I gave to it.

As far as clearing yourself is concerned, I have no doubt

about it?—I know it. I will give you any information you desire.

I have no wish to carry this matter further if—

Colonel Phayre (interrupting) I can assure you I am willing to give every syllable I ever wrote

Inasmuch as you were cleared afterwards, there can be no reason for that. Now during the time you were under the Government of Bombay, did you advise the prosecution of a series of frauds?—Persecution!

No, prosecution?—Yes, I did.

Can you put your hand upon the original document to which I referred just now?—No, but as you have referred to the Banvan frauds, I should like to say—

Never mind that now, Colonel Phayre, this enquiry will last some time. Can you within a reasonable time obtain the original document?—I cannot get it without the sanction of the Government.

Or the sanction of this Court?—Or of this Court. I should be very glad to do it, if the whole of the correspondence were put in.

The President You are not asked that. All you are asked is if you can produce that document?—I do not know where it is, my Lord. I have not the official document.

The Advocate General I will undertake to telegraph for this document to Bombay. I have had no notice from my learned friend to produce these files. I will ascertain from Colonel Phayre the date of the document.

Colonel Phayre The date is 4th May 1872, No. 1023.

Sergeant Ballantine That will do. The files are more important than anything I can say.

In November 1873 a Commission having been issued, commenced its sitting at Baroda?—Yes.

To enquire into certain charges of mal administration on the part of the Gaekwar?—Yes

I believe that General Meade was the President of that Commission—is that so?—Yes.

It ended the 24th December in the same year?—Yes.

And subsequently an elaborate report appeared?—Yes. Now I may as well get a date. On the 7th May the Gaekwar married?—Yes 7th May 1874.

And I believe I may take it, there was some unpleasantness between you and him on that occasion?—A khureeta was written

Did he not complain that certain forms which he thought you ought to have carried out and—

The Advocate General Oh 'no, that is not so

Witness On the occasion, I did what the Government directed me to do

The President Did the Gaekwar mention the affair in the khureeta

Witness There was nothing personal in the matter. It was all official. His Highness continued to visit me privately all the same.

Are you aware of the fact that there was a khureeta from the Gaekwar to the Viceroy on the 17th May? Any khureeta would pass through my hands

I mean one promising to reform?—I believe there was such a khureeta.

The Advocate General If my learned friend is going to rely upon these khureetas, he ought to prove them in the regular way.

Sergeant Ballantine I am only asking these questions in order to get dates. I may put them in afterwards, or I will put it in now.

The khureeta is as follows—

To H. E. the Right Hon'ble THOMAS GFORGE BARING,
BARON NORTHBROOK, G M S I, Viceroy and Governor General of India, Calcutta.

My HONOURED AND VALUED FRIEND,—I have received a Yad dated 27th April 1874 from the Resident, saying that I am allowed to send in my reply to the Report of the Com-

mission till 1st June next I have therefore once more to thank your Excellency sincerely for this further proof of your Excellency's kindness and consideration for me.

Since writing my last Khureeta of 15th April 1874, I have been considering the matter more carefully, and I think that the most important question of the moment, and for which your Excellency also would probably care most, is not so much the past as the future. However successfully I may be able to prove to your Excellency that I have been put in an anomalous position both in the Commissioners enquiry and report, and that my past administration has not been worse than that of my predecessors or of other Native States, it can at best be but unprofitable. For what your Excellency would like to know most would, I think, be whether I understand or not the spirit and wants of the times. That the administration of the Native States must undergo a change in conformity with them and that I should therefore be prepared to inaugurate all such reforms as are necessary for the purpose. Instead therefore, of troubling your Excellency at present with a reply to the Report, I feel that I should apply myself more to this important question before me.

On this point I may assure your Excellency, as I have already done in my last khureeta, that I am not insensible of my interests and those of my State, and I trust that I shall at no distant date give satisfaction to the British Government.

Even by this time I should have been able to show much progress in the improvement of my administration had I obtained the help I asked from the Bombay Government of certain officials in Government service, and had it not been for the effects of the Commission which so far unsettled the minds of the people and produced an impression among them that I did not enjoy the moral support of the British Government, that I have been left to contend against many unusual difficulties strong such as even the Paramount Power in India itself could not according to Mr Ayrton, afford to encounter for the only agreement he urged in Parliament against a Commission for India was that it would unsettle the minds of the people of the country.

Your Excellency is well aware how every Gaekwar prince has had the good fortune to enjoy the kindness of illustrious Englishmen in authority, and that in every instance his rights and dignity were most scrupulously and solicitously respected. Moutstuart Liphinstone while exacting certain necessary conditions for the fulfilment of the British guarantee to the Bankers still engaged to leave my father with regard to the internal affairs un restrained and showed in all his interviews and negotiations the utmost friendliness. He distinctly instructed the Resident of the day to abstain from all interference in the internal affairs of the Gaekwar Government.

Sir John McColm, in his letter to the Resident, dated December 10th, 1827 says "They [the subjects of the Gaekwar] must be told that you can in no shape interfere with the concerns of His Highness, and to give effect to this principle it is indispensable that you should personally convey this intimation to such individuals as make application to you or give you petitions on any matters in which you are not bound to interfere." That the Gaekwar was the only one, he it always remembered, of the Maratta Powers which has on the most trying occasions been invariably steady in its alliance with the Honorable Company, expressed his opinion that they ought not to interfere between the Gaekwar and his subjects.

Sir T Carnac, when settling a long existing dispute, evinced the same kindly feeling towards the Gaekwar and declared that "the British Government in no way wishes to interfere in the internal administration of your Highness's territory, of which it acknowledges you to be the sole sovereign."

The conduct of the Gaekwar during the mutiny and the

good feeling then still further augmented between the two States need no repetition here.

In the year 1860, when transferring the direct relations of this State to the Bombay Government, the Viceroy promised in his khureeta that the "friendship subsisting between the two States shall be maintained, and the welfare and public respect of your Highness's State and family shall be continued according to your wishes."

Lastly, Sir Seymour Fitzgerald accorded the right of choosing his Dewan without previously consulting the British Government.

Such has been the continuous friendliness and solicitude of British authorities to preserve and promote the Gaekwar's sovereign rights, and his position and dignity whatever the necessity they may have felt at times to give friendly advice.

In addition to the above clear engagements with and kind consideration towards the Gaekwar princes I may here point out briefly my treaty rights. Much stress has been laid upon the engagement of 1802 by the Bombay Government in their letter to the Government of India, dated 23rd August 1872. The following clauses are quoted therem —

1st.—(From the treaty of 6th June 1802) "That the East India Company will grant the said Chief its countenance and protection in all his public concerns according to justice and as may appear to be for the good of the country, respective which is also to listen to advice.

2d.—(From the letter of 29th July 1802) "Should I myself or my successor commit any thing improper or unjust, the British Government shall interfere and see in either case that it is settled according to equity and reason.

The first does not warrant any interference in internal affairs, with regard to the second, apart from the circumstance that the clause cannot bear the interpretation put upon it by the Bombay Government, the Marathi version does not contain the words "or my successors" at all. Any agreement for interference, therefore based upon the above clause is altogether groundless. Moreover in the year 1816, the Governor General of India has fully cleared up this very point of our treaty relations when the Bombay Government of the day had urged a similar argument for some interference. The letter to the Bombay Government dated 16th March 1816, after laying down that the right of interference claimed by the Bombay Government would not be borne out by the equitable construction of that engagement (viz the treaty of 1802) which embodies all previous engagements), and that though the Bhandaree gave a power of control in a particular direction, neither that power of control nor any modified degree or was given by the Bhandaree for any other purpose or further remarks.

With reference to the observation that our connection with the Baroda State is of a peculiar character and entirely different from any of the alliances subsisting with the other native powers I am directed to observe it is the existence of the Bhandaree alone that constitutes that difference. The treaty itself, which must be received as the interpreter of the relations between the two States is framed on the model of the treaty of Hyderabad, and if the obligation of the Bhandaree were to cease, our connection with the Gaekwar would not differ in principle from our subsidiary alliance with the Nizam or the Peshwa.

During the whole period of above three quarters of a century of the connexion between the two States, the good faith and honour of the British word on the one hand have been scrupulously maintained even under adverse circumstances and the fidelity and loyalty of the Gaekwar Princes on the other have been unflinching and invariable. I need not say that on my part this fidelity and loyalty will be but of a piece with the traditions of my family, and I cannot persuade myself that the continuous good faith and friendship of the British in maintaining the

rights and dignity of my family will now be departed from, whatever differences or disagreements have at times taken place, and sometimes even of a serious character, the rights and dignity of the sovereign beyond the necessity of the fulfilment of the British Bhandaree have never been touched.

Judging from the several instances of your Excellency's consideration and kindness towards me, I cannot but unhesitatingly rely upon a continuance, at your Excellency's hands, of the scrupulous regard for my rights and dignity which my predecessors have invariably enjoyed from the British authorities of their day. I have every desire to improve my administration. To any friendly advice from your Excellency I shall give my serious attention, and I have no doubt that such friendly advice will be in accordance with my existing rights, position and dignity.

After kindly considering my above representations, I fully trust your Excellency will give me a fair trial, and shall satisfy your Excellency that I have made the improvements I have referred to above.

I have received a yad from the Resident, dated the 15th instant, from which I have learnt with extreme regret that your Excellency has refused to accede to my request to allow me to send my Dewan Shivajeerao Khanvalkar with this khureeta.

I shall in a separate khureeta express my views upon the recommendations of the Commission with regard to the contingent.

I beg to express the high consideration and esteem I entertain for your Excellency and to subscribe myself—Your Excellency's sincere friend,

H H MULHARAO MAHARAJAH,
Gaekwar Sena Khashkil Sumsheer Babadoor.

Nowsaree Palace, May 17, 1874

The Advocate General When you ask questions on a portion, we ought to have all the contents.

Sergeant Ballantine I have not the least objection.

Cross examination continued Did you know of a khureeta from the Viceroy on July 25th in answer to the Gaekwar?—I do.

Was the effect of that khureeta to give the Gaekwar the opportunity of reforming till the end of 1875?—Yes, progress being reported by me.

My learned friend, my Lord, points out that quoting those khureetas I am bound to put them in. I will do so with pleasure, but I think it better to ask questions now on salient points before the Court, which will be better than reading them now. Had there, Colonel Phayre, been any questions between you and the Gaekwar about the appointment of Mr Dadabhooy as his Minister?—Not between me and the Gaekwar. He asked my opinion on Mr. Dadabhooy.

And you disapproved of him?—I informed His Highness of my opinion.

That was adverse?—It was adverse to Mr. Dadabhooy. But according to His Excellency the Governor General, His Highness was to judge for himself exclusively. This was the Governor General's order given to His Highness.

Well, and that gentleman continued to act as Minister?—Yes, he continued to act. He was appointed.

By the khureeta, I suppose?—No, by His Highness. It was confirmed, and he continued to act. He had been Minister for nine or ten months.

I believe that you were in constant communication with Mr. Dadabhooy Nowrojee for some time—months after that?—From that date?

From July 25th to November?—From about the 10th or 12th August 1874 my communication commenced with Mr. Dadabhooy Nowrojee as minister. Before then Mr. Dadabhooy carried on the administration himself.

Now without going into the question of whether he was

right or wrong, was there any complaint made by Mr. Dadabhooy Nowrojee as to your conduct in the matter?—I do not know of any complaint.

I mean to yourself?—Oh! no, I never heard any. We conversed often together. I made complaints to the Gaekwar, and His Highness summoned Mr. Dadabhooy Nowrojee.

I only want to go up now to November 2nd 1874. We are coming near the scene of action. There was a khureeta sent by the Gaekwar at that time to the Viceroy?—Yes.

And you sent a report when he sent the khureeta?—Yes. You don't seem, then, to have been upon pleasant terms?—Well, it was all in the way of business.

Sergeant Ballantine here put in the following khureeta — To H E the Right Hon'ble Thomas George Baring, Baron Northbrook, G M S L, Viceroy and Governor-General of India, Calcutta.

My Honourable and Valued Friend,—From the events which occurred prior to your Excellency's khureeta of 25th July 1874, it is plain that the administration of this State cannot be carried on, and the necessary reforms introduced, without the cordial support of the Resident. It had occurred to me, among other matters, I desired to say in reply to the above khureeta, whether I should not solicit your Excellency's attention to the position which the present Resident, Colonel Phayre, had all along taken up towards me, and to submit for your Excellency's consideration, whether, with the want of sympathy which existed between us, I could expect an unbiased and fair treatment at his hands in future. I, however, refrained from troubling your Excellency owing to the confidence expressed by your Excellency in Colonel Phayre, and in the hope that, seeing the course I resolved to adopt on receipt of your Excellency's advice, he could forget the past and assist me with his active sympathy in the difficult work of introducing a reformed regime. But I deeply regret to say, from the experience of the past three months, that this hope has not only been not realized but that, on the contrary, Colonel Phayre has evinced, if anything, a more determined and active opposition towards me and my administration than before.

From the very commencement he had expressed a strong opposition to the selection of the minister of my choice. The assurance of support subsequently given by him to my minister, however, raised hopes in me, but they have not been realized. On the receipt of your Excellency's khureeta I at once took the necessary steps as far as practicable, and have been endeavouring all along to give effect to the advice contained therein. Among other things, I have to replace the executive machinery of Government with able and experienced men, to satisfy on some equitable basis the demands of the Sirdars and others which had received attention from the British Government, and to enquire into and revise the existing land revenue settlement throughout the whole territory. No one, however, can know better than the Resident what difficulties each of these subjects present especially when all this is to be effected in a very short time. But when owing to his former attitude even Colonel Phayre's presence alone would have been enough for a continuance of the unsettled state of the mind of the people, unless he gave me open and cordial support the difficulties of my work become vastly increased by the course of open opposition he has been lately pursuing.

I am, therefore, driven to appeal to your Excellency, whom I do most reluctantly, to decide whether under such circumstances I can have a fair trial.

I may mention here one or two instances in support of my complaint. A charge of defamation was some days ago preferred by my father in law against a Silladar by name Chandarao Kaddoo. My Dewan himself, in the presence of

Chandarao, read over the proceedings of the preliminary investigation and in order to give both parties the benefit of an impartial trial, I directed the Chief Magistrate, Mr. H. A. Wadya, to try the case instead of the Senaputtee, who is my relative. The accused suddenly left Baroda, and I was informed, went to the Camp. What he did there I cannot say, but soon after several other Silladars and some Sirdars, with their retainers, some 150 in number, assembled, armed, in the house of one of them, openly defying the Durbar authority and threatening armed resistance. They told the Durbar officials who went to serve the summons on Chandarao that the case in which his attendance was required was a caste concern, and that they would defend him with their lives if attempts were made to enforce his attendance. They then escorted him to his house, and remained there armed to guard him. I sent the Dewan to represent the matter to Colonel Phayre in the hope that he would use the influence he had over them and uphold the Durbar authority, but to my astonishment the Dewan found the Resident prepared to justify the conduct on the very same plea, and almost in the very same words the Silladars themselves had used. He refused to persuade them to disperse, saying that they would do so only if the criminal proceedings were withdrawn. On the joyful occasion of the birth of my son I resolved to give up further proceedings against Chandarao. When I sent the Chief Justice of the High Court to explain to the assembled Silladars that further criminal proceedings would not be taken against Chandarao and to ask them to return to their houses, they refused to do so and substituted in place of Chandarao's case a new plea for resistance, that unless the grievances of one and all of them were redressed they would not separate. The Resident at the same time addressed me a *yad* with reference to this assemblage, putting me the very same question, viz., what steps had been taken by me towards settling the grievances of the Sirdars, showing a remarkable concidence of views. As another instance, I beg to enclose copy of a letter received from the Resident, dated 20th October 1874, and translation of a petition to the Government of Bombay which accompanied it. The petition is from certain Sindee Mahomedian cultivators complaining that they were prevented from cutting their crops and were mobhalled, &c. Your Excellency will observe the threat of an appeal to arms which is contained in the petition. On inquiry I find that those petitioners had not made any complaint since the commencement of the last rainy season either to the Talook authorities or to the head of the Revenue Department, or to the Dewan. The petition further on the very face of it shows that it has been drawn up under the inspiration of designing persons. Colonel Phayre, however, without making any enquiry from me, at once addressed me the above letter. This letter is enough to show the spirit in which the Resident acts towards me, such proceeding on the part of the Resident cannot but have the effect of encouraging the turbulent propensity of such a class of Mahomedans and disloyalty generally. These two instances, which I have taken as representative ones can hardly give an idea of the harassing and vexatious treatment I am at present receiving at the Resident's hands. His attitude on the part of the British representative has naturally become a source of serious anxiety to me especially, as in such times persons are not wanting who for their private ends, take advantage of this state of things to misrepresent me, and to instigate continuing resistance to my authority among my subjects. The result will be a great loss of revenue this year and a continuance of the unsettled state of the minds of the people. How seriously this state of affairs must embarrass and obstruct me in my intended reforms it is not difficult to conceive.

Your Excellency knows well the extent and nature of

the work before me, and I owe it to myself and those whom I have engaged for that work, to submit, how hopeless any efforts on my part would be if Colonel Phayre were to continue here as representative of the Paramount Power with his uncompromising bias against me and my officials.

I beg it to be understood that I do not impute other than conscientious motives to Colonel Phayre. But he is too far committed to a distinct line of policy and to certain extreme views and opinions, and he naturally feels himself bound to support all and everything he has hitherto said or done. He makes no allowances, he forgets that till the officials I have asked for come I could not make much progress in the mahals, and continues to lend a ready ear to complaints against me, thus defeating the very object he says he had in view of helping in the arduous task before me.

Colonel Phayre has been my prosecutor with a determined and strong will purpose, and that he should now be made to sit in judgment upon me is, I must submit, simply unfair to me. From only three months' experience it is clear that he has prejudged the case, and I cannot expect an impartial report from him. I leave myself into your Excellency's hands. Your Excellency has asked me to stake my all in this trial, and I must, therefore, request your Excellency to place me in a condition in which I can really have the fair trial your Excellency has given me. I may mention here that I have made some progress in the various reforms recommended by your Excellency which will be communicated to Government in due time. As to what I have already done and what I propose to do in the matter of the claims contained in the Commission Report, and upon which Government has given advice, I shall shortly send in a complete statement. For the reduction of assessment I have already fixed upon my arrangements, and am only waiting for the Government officials I have asked for to carry them into effect.

As I cannot enter, in a khureet like this, into all those incidents which make up my present troubles and anxieties, I request that my Minister be permitted to visit your Excellency with the Resident. I shall feel highly obliged by your Excellency granting this permission by telegram.

I beg to express the high consideration and esteem I entertain for your Excellency, and to subscribe myself,—
Your sincere friend

(Signed) H. H. MULHARAO MAHARAJ.

Baroda Palace, 2nd November 1874

Cross examination continued. Now I believe that the answer to that came on the 25th of the same month, the alleged attempt at poisoning occurring in the interval. Am I right in that?—I do not think it was given as an answer to the khureeta.

I will put it in and read it. It is as follows —

To His Highness Mulharao Gaekwar Senakhas Khil
Sameer Bahadoor, Baroda.

My Honourable and Valued Friend.—I have received through the Bombay Government your Highness's khureeta dated 2nd November 1874.

I deem it unnecessary to discuss with your Highness the reasons you have given for desiring a change in the Baroda Residency, but after a careful consideration of the circumstances that have taken place, and, moreover, in pursuance of the determination of the Government of India to afford your Highness every opportunity of inaugurating a new system of administration with success, I have made arrangements to depute an officer of high rank and wide experience in political affairs to be the representative of the British Government at your Highness's Court.

Accordingly, I have appointed Sir Lewis Pelly, K.C.S.I., my Agent for Raopotaana, to be my Agent at Baroda, and he will present this khureeta to your Highness.

In giving to your Highness the great advantage of the advice and assistance of an officer of such high distinction, who has filled important political functions with great ability and to my entire satisfaction, I have now done everything in my power to aid your Highness in the efforts which I am glad to be informed by the khureeta under reply are being made to reform the administration of your Highness's territories, in consequence of the khureeta I addressed to your Highness on 25th July 1875.

I shall await with anxiety the reports which I shall receive from Sir Lewis Pelly from time to time of the progress of the measures which your Highness is taking with this object.

I beg to express the high consideration I entertain for your Highness, and to subscribe myself, — your Highness sincere friend,

NORTHBROOK,

Viceroy and Governor General of India

Fort William, dated 27th Nov. 1874

It was in answer you perceive? — Yes, it did not come through me.

The President Did you read the original Sergeant Ballantine?

Sergeant Ballantine No my Lord We got this on inspection. The whole of His Highness papers were seized and are in the hands of the police.

Colonel Phayre It must have been received through me I think.

The Advocate-General We will have the original produced.

The President Sir Lewis Pelly says the learned Sergeant did not read it all.

Sir Lewis Pelly It is not necessary.

Sergeant Ballantine Oh' there is one other paragraph which I did not think material, but which may not perhaps be unimportant I will read it.

The learned Sergeant then read the paragraph in the above khureeta beginning "In giving to your Highness" &c.

Cross examination continued There is one other date which may not be unimportant Were you aware of the birth of a child to this marriage on the 16th October? — Yes, His Highness was married on the 9th May and the child was born on the 16th October.

Still it was born after the marriage? — Yes, it took place 6th or 7th May, I think.

Of course that involves questions of law which I do not at all events propose to discuss. Now in the September or

attending you? — Dr Seward was attending me.

From the commencement he supplied the plaster which you used? — Yes. He supplied and applied it.

It was at that time, I understand you to say, you had a slight fever, a sensation of fulness about the head and watery eyes? — Yes, about that time and subsequently,

Did that exist before or after that plaster was applied? — I am speaking of the period It commenced before the plaster and continued after. In fact I imagined the boil was the cause by those symptoms.

At that time you began to wonder whether the sherbet was made with proper pummaloos? — Yes.

At that time did you use to drink the whole of it? — Yes. You were not prevented from any opinion of its badness from drinking the whole of it? — Sometimes I drank it all, and sometimes I did not. I mentioned it to Abdulliah on one or two occasions, and he brought me a pummaloos to look at. It was bad.

You did not at that time enter into any investigation about the pummaloos juice? — Oh' no.

If I understand you correctly, it was on the 6th November

you noticed a peculiar taste? — I did not notice a peculiar taste. How do you mean? In what?

In the pummaloos juice? — Oh' dear no.

Very well, I am corrected Oh! I think what you said was you took it up or two and then threw it away? — No. What I said was—but do you mean on the 6th November? [Sergeant Ballantine Yes] Oh' yes.

Upon that day you did not feel very well? — Afterwards, no.

Heavy about the head, and I think you used the expression much as you had felt in September and October? — Yes, that is so.

On the 7th you did not drink the whole of the sherbet? — I did not.

Now I noticed in my learned friend's examination he asked no questions about the 8th November, did you drink that day? — No, I did not. It was Sunday. I was so ill on the Saturday that I did not take it.

Well, we have heard your account of what took place on the 9th, and you have told us you threw the contents or a portion of them out of the window? — Yes.

What quantity was left in the glass? — There was no liquid scarcely. It was only a dark substance with a little liquid.

Would you be right in describing it was being damp substance or a liquid? — The way it was is this I saw a dark substance at the bottom of the tumbler and a little pouring down the side.

I want to get it correct — That is exactly it.

Some small portion pouring down the sides of the tumbler? — A very small portion, just as it would be by throwing it out of the window.

How much after? — How much after do you suppose there was after it had deposited. Would it cover your nail? — Oh' yes, it covered the bottom of the tumbler. I should think a couple of tea-spoons full, may be a little less—say one and a half.

How much of this did Dr Seward see? Did he see the whole of it? — He saw the whole of it. I never touched it.

Now you have said that it had a dark appearance, can you illustrate that expression in any way? You know I have seen pummaloos juice? — This I saw was not pummaloos juice. It was a substance

Yes, but was it any colour? — Oh yes, dark. Pummaloos colour is red.

I should call it brown. We have been drinking it without arsenic this morning. Now I hold in my hands what purports to be a letter from you. It is dated 18th November. The last paragraph in that is

"Previous to the receipt of your letter under reference, I had received secret and confidential information that the poison administered to me did consist of—1, common arsenic, 2, finely powdered diamond dust, 3, copper. The importance of verifying this information is obvious."

From whom did you receive that information? — I received it from persons who generally gave me information I cannot say whom it was.

I think it may not be undesirable if I read the whole of that letter. It is an important letter

No. 50 A of 1874.

Dated 13th November 1874.

From the Resident, Baroda, to the Chemical Analyser to Government, Bombay.

Sir,—Referring to your semi-official letter, dated 11th, sent relating to a small packet of poisonous matter forwarded to you for examination by Dr Seward, I have the honour to request that you will be kind enough to favour me with a formal official report as to the contents of the poisonous matter above referred to.

2. With reference to the statement made in your letter that the powder forwarded to you consisted partly of common white arsenic and partly of finely powdered silicious matter, which under the microscope appeared to be

ether powdered glass or quartz, being most like the former, I should feel much obliged by your kindly informing me whether, in your opinion, the suspicious matter referred to can possibly be powdered diamond.

8. Previous to the receipt of your letter under reference, I had received secret and confidential information* that the poison administered to me did consist of—1, common arsenic, 2, finely powdered diamond dust, 3 copper

The importance of verifying this information is obvious.—I have, &c.

(Signed) R PHAYRE,
Resident.

* Please do not mention this at present. (Sd) R P.

Now after that what "from persons who generally gave you information," what do you mean by that?—A great number of persons gave me information

Do you mean upon the subject of the Government of Baroda, or what?—Upon all subjects connected with the grievances of the people, and with all matters under consideration at the time. Indeed, I could scarcely go out of my compound, but on all sides I was met with people with complaints. Petitions and petitioners, too, were a source of information

One of the inconveniences of greatness. Just tell me were there any persons attached to the Residency who gave you information?—None, they had no opportunity. There was a number of persons gave me information, and I have given a roll of their names.

Did they receive any money to your knowledge?—No, never

You never paid at all for that information?—No, I had plenty of information without that. A broken hearted people do not require that

Do not make a speech about a broken hearted people. If you talk about broken-hearted people I may just as well talk about a persecuted prince. So be kind enough not to talk so. I will not have it. Just be good enough to give an answer to my question. Was any person paid for giving you information?—No

Never?—Not anyone

On no occasion?—On no occasion that I am aware of, never from me at any rate, nor do I know they have

What is your belief upon the subject?—I believe they have not.

Now, Sir, to come back to this letter. You know you have there described those who gave you information as if you thoroughly knew the parties. You say "I have received secret and confidential information." Now who gave you that secret and confidential information? Give the Court—(The President: The Commission)—I beg pardon, the Commission, that information—I can give this information. It was one or other amongst the persons, but which particular person I cannot say. I can give you the list of those who used to give me general information. It was one of these

You see you are writing this to Dr Seward, and you are telling him that the importance of verifying the information is obvious

The President Dr. Gray, Sergeant Ballantine, not Dr Seward.

Sergeant Ballantine I beg pardon. It is Dr Gray. You know this is written, Colonel Phayre, four days after the supposed attempt at poisoning, and it is written to the Government Analytical Chemist, and you say "the importance of verifying this is obvious." What do you mean?—I had no object.

Come, Colonel Phayre?—Well, the importance of ascertaining

You do not say that?—Well, the importance of verifying the statement whether it was diamond dust or not. It matters nothing, because the answer came before my letter reached him.

I know that. I do not say it had any effect on Dr Gray. Indeed, we know it had not. It occurs to me that written at that time and under the particular circumstances of the case, and from the language you use, it is very strange you do not remember whom your informant was?—I can give you the list, and if the Court desire it, I will try to ascertain whom it was

You know, Colonel Phayre, you examined several persons, why, if anybody told you something which gave you reason to fear you were to have been poisoned by arsenic, diamond dust and copper, why did you not take down his evidence and make a memorandum of his name?—I did not see the necessity of it. You see it all there in the correspondence

Now, Colonel Phayre, I must remind you of a most important and vital fact, that "secret and confidential information" had been given to you by some one, and I ask you why you did not make a note of his name?—Because it was secret and confidential. I did not know that it was right, and according to the evidence it has turned out that a part of it is wrong

You must not say that even at present. Of course you know Bhow Poonakur?—I do.

Was it he?—I do not know whether it was he or not. It might have been he

Now Colonel Phayre, was it Bhow Poonakur?—It was Bhow Poonakur or another man perhaps.

No "perhaps," please?—I will enquire

Was it Bhow Poonakur?—I cannot say. I will make enquiries

To the best of your belief?—To the best of my belief I do not know whether it was he or not, because many persons gave me information

Who was the other man?—There was another man Baswantrao Munshi. It might have been one of these. There is a list of them

I won't have your list. Two persons you have named, was it one of them?—I tell you I cannot say. I believe it was one of these two. I cannot say now, but I will enquire.

Was it Bhow Poonakur who in the late Commission took a very active part against the Gaekwar?—How do you mean?

My language is plain enough—I do not know your meaning. I wish it to be explained

I said did Bhow Poonakur take an active part against the Gaekwar?—If you mean that Bhow Poonakur gave me information, that is perfectly true, and I have given his name down as one of the persons who gave me considerable and useful information in the cause of reform. He is an honourable person, that is my opinion.

That is your opinion, and I accept it as your opinion simply. Now was this extremely useful information in favour of reform also adverse to the Gaekwar?—He was never adverse to him in matters reforming the grievances of the people.

Colonel Phayre, I do not think you are dealing quite fairly with me. You know gentlemen of your high position and education must understand these simple questions. So tell me was the character of this information adverse to the Gaekwar? Never mind whether it was just or not? He may have been a true patriot, and the Gaekwar a great tyrant—if he had anything good to speak of him, he would say it.

The President That is not an answer to the question. You can say if it was adverse.

Witness I have often received information against the Gaekwar. I was not against him.

The President Cannot you answer the question the learned Sergeant puts to you?—Yes. It was not always against the Gaekwar. In cases where he believed it, it was.

Now, Colonel Phayre, I do not intend to occupy the time of the Commission by constantly repeating questions. I must ask you, as an officer and a gentleman, whether in your

judgment Bhow Poonakur was not adverse to the Gaekwar. That is a question which a gentleman and a man of honour can answer?—I have given my answer to this. Not as a general rule.

Did Bhow Poonakur, as a matter of fact, get up the case against the Gaekwar before the Commission?—He gave information about many cases, but not all of them.

Amongst other cases on which you say he gave information, was a complaint of Saidukt Ali, the camel-driver, one of them?—No, Saidukt Ali gave it himself.

Now I ask you, Colonel Phayre, to your perfect knowledge, did not Bhow Poonakur get up and manage the case of Saidukt Ali?—Get up or manage it! I received it first from Government to report upon.

I ask you, Colonel Phayre, whether to your knowledge Bhow Poonakur did not get up or manage the case of Saidukt Ali against the Gaekwar?—I do not know. As far as I know, no. He did not manage it in the full sense of the word. He may have given information about it. It was a thing got up long before. He may have given some information.

Have you a doubt of it?—I have not the least doubt that he gave Saidukt Ali some little assistance.

The Interpreter, shaking his head as Sergeant Ballantine was proceeding with another question, said Give me a little time, if you please. I have not translated the last answer.

Sergeant Ballantine I beg pardon. I do not wonder at your shaking your head at me. I feel almost ashamed (Laughter)

Cross-examination continued What did Bhow Poonakur tell you about this copper?—As far as I recollect, he told me that he had heard that the ingredients put into the tumbler were arsenic, diamond dust, and copper. That is the information and no more. And that was what we call cutchee kuka, or imperfect information.

But this was an important subject did you ask what his grounds were for saying that?—Not I. I was engaged about other things. I considered it cutchee kuka or 'gup.'

Are you in the habit of calling cutchee kuka "secret and confidential information"?—It depends where it comes from, and the nature of it.

Then why did you call it "secret and confidential"?—Because I did not wish to speak about it.

Then why did you speak about it?—I said "secret and confidential" to the doctor to verify it.

You had said previously that there was copper in the liquor you drank?—No, I said a coppery taste in my mouth after drinking it.

Which you had not before?—No, no, I had not.

That is like saying it is in the liquid?—I did not taste it in the liquid.

But in the mouth?—Yes, a considerable time after drinking it. I experienced it when Dr Seward was with me. I said "I feel it even now."

When did you feel that coppery taste? Immediately after drinking?—No, not till a time after, about three quarters of an hour.

You had taken nothing in the interval?—Yes, I may have smoked a cigar.

But you know the difference between copper and tobacco?—Yes.

That would not give you a coppery taste?—I do not know. Coming upon arsenic and other things I do not know what it might do.

If you did not experience a coppery taste, what was it disagreeable to the taste which made you put it aside after one or two sips?—I did not say anything of that. That has twice been put forward, and put into my mouth twice.

No you are mistaken. You may have been asked it, but it has not been put into your mouth. Did you or did you

not put the glass away in consequence of a disagreeable taste?—No. It was in consequence of the effects I felt.

But you had not felt the effects?—Not till twenty minutes or half an hour afterwards.

Am I to understand that you did not throw away the contents of the tumbler for twenty minutes or half an hour after sipping?—Certainly.

You are alluding to the 9th November?—Yes.

Then the feelings you experienced twenty minutes or half-an-hour afterwards it was which induced you to throw away the liquid?—It was that.

Now upon the 6th or 7th, was the taste the same?—No.

Then why did you not continue drinking it?—That I cannot account for, except that by the mercy of God I was prevented from drinking it.

In Courts of Justice we look for human causes. Was there anything to induce you not to drink it except the mercy of God as you have told us?—There was no reason. I took it up and threw it away, because I did not want it, or something of that sort.

Well there was no reason, according to your account, for throwing it away?—There had been on the 7th. I had been unwell on drinking it on the 6th, therefore I may have been influenced by the proceedings of the preceding day.

Oh! then what prevented you drinking on the 6th?—That I have given you. I know no other.

Was the reason you did not drink it upon the 7th that you have not been well on the 6th?—I cannot say the absolute reason, but I daresay that had some influence upon me, and I think it had something to do with the symptoms I had before.

But that was from no taste in the sherbet?—No, but the effects on my health.

Among the persons you examined was Rowjee Rahmon one?—Yes, Rowjee havildar.

Did he say, among other things, "I suspect Fyzoo, because he has for a long time been engaged in all kinds of intrigues in Col. Shortt's time?"—Yes he did.

At that stage of the proceedings Sergeant Ballantine said There may be two or three other questions which I desire to ask, but if you will allow an adjournment to take place, I will not examine many minutes longer.

The Court here adjourned for tiffin.

When the Court resumed its sitting after tiffin, the cross-examination of Colonel Phayre was continued as follows—

Had Bhow Poonakur access to the Residency?—When do you mean?

During the time you were Resident?—Yes.

Had he access to this private office of yours?—Yes.

In your absence?—No, in my presence.

Never in your absence?—Never in my absence. Many others also had access to it.

I didn't ask you that question. You mean you never found Bhow Poonakur in your office when you came there?—I never found Bhow Poonakur in my office when I came back.

Now, I am to take that as your deliberate answer?—As my deliberate answer. (After a pause) When do you mean?

At any time?—I may have gone out of the room for a short time, and on such an occasion I may have found him there when I came back.

Does that mean that you never found him there when you had not left him there?—I never found him there when I came back from my walk in the morning.

That is not my question. Did you never find him there except when you had left him there?—Never.

In no instance?—In no instance

I may assume it was not frequent the custom of Bhow Poonakur to come to your private office, and when you were out, to wait till your return?—Certainly not in my private office. He may have been in the ante-room with my clerks.

Or he may have been alone?—Not alone that I know of. Now, if he were in the ante-room, would he have access to the private office?—He would have access to the private office, but not without persons seeing him.

That again I did not ask you. Did you hear from Bhow Poonakur that the khureeta of the 2nd November was about to be sent in to Government?—I did not.

When did you hear that?—I cannot say exactly; it must have been a day or two before. I cannot say exactly, but I heard it, I know.

What is the best of your recollection on the subject?—Either the day, or the day before, or somewhere about that time; I cannot say exactly.

But did Bhow Poonakur know anything about it?—I don't know.

Did you ask him?—No.

He told you about a private khureeta that was about to be sent to the Viceroy of India some time before you knew anything about it officially?—He mentioned that a letter of jawab was in course of preparation, but he did not mention a khureeta.

Did he tell you where he learnt this?—No.

Did you ask him?—No.

Did he tell you the nature of it?—No, not that I know of. Now, "not that you know of." Pray, pray, Col. Phayre, did he tell you the nature of it?—No.

No?—No.

Who did tell you?—He merely said that a letter was in preparation for the Governor-General. I tell you as far as I know, and as far as I know now

Complaining of you?—I don't know.

Complaining of you? You must, you know, Colonel, know that you learnt from this man Bhow Poonakur the contents of a private letter that was being prepared by the Gaekwar?—I swear positively I did not.

That you did not what?—That I did not learn the contents of that khureeta.

Did you learn the general nature of the contents?—No, I did not.

You undertake to swear that you did not know that this khureeta or this paper that was being prepared was a complaint against you?—You say I am not to say what ideas I formed. I formed an idea that it was such a thing.

Was Bhow Poonakur a spy then upon the Gaekwar, or what was he?—He was an agent of one of the nobles of the State.

Who was that?—Meer Ibrahim Ali:

How came he to give you information? Why was he constantly at the Residency giving you information?—He came on business often, and the first time I saw him he came on business connected with a ward of Government, Meer Zoolfakir Ali.

But did it not occur to you to ask him how he got such a pieces of information as that?—No, it did not.

Now, just tell me, when did you see Bhow Poonakur after you suppose you were attempted to be poisoned?—Well, really, I cannot say he was there that day I know.

I almost know as much myself. What time that day?—I remember him after breakfast that was the time he usually came.

Did you tell him about that circumstance?—No, not at that time.

Didn't you?—No.

Are you quite sure?—Yes, I am quite sure. I didn't speak to anybody till I saw Dr. Seward.

When did you tell Bhow Poonakur?—I really cannot say.

But if he were the person who told you about the copper, when did he tell you?—I think I learnt about the copper on the 12th or 13th.

Your letter was on the 13th. Have you seen Bhow Poonakur lately?—Yes.

When did you see him last?—I saw him since I left thus.

Have you conversed with him?—Yes. I asked him whether it was he that gave me the information about the diamond dust and the copper.

What does he say?—He says he did.

This concluded the cross-examination of this witness.

The Advocate General I have telegraphed to Bombay for those files and with the permission of the Commission I might perhaps reserve my re-examination till my learned friend has concluded his cross examination.

Sergeant Ballantine There is only one point, and that is simply the document which I say was a reprimand from the Government of Bombay.

The President You had better re-examine now. You will, of course, be allowed to re-examine on any new points referred to by the Sergeant.

The Advocate General Then I must ask my learned friend to put in those other documents with regard to which he has been examining Colonel Phayre.

Sergeant Ballantine replied that he considered they were all put in.

COLONEL PHAYRE'S RE-EXAMINATION.

The Advocate-General (to the witness) You were asked by my learned friend in regard to a khureeta written in May 1874, on the 17th, I think, by the Gaekwar, making a complaint against you?—It was of the 9th.

Sergeant Ballantine said he thought his learned friend was mistaken, he had asked the witness whether complaints had been made about this time, but not if any khureeta had been written.

The President said that in his note it was that a "khureeta was written."

The short-hand writer's notes were referred to, and it appeared that the words were "a khureeta was written complaining of want of respect."

The Advocate General (to the witness) Now, Colonel Phayre, in reference to the marriage of the Gaekwar at Nowsaree did you act entirely in conformity with the orders of Government?—I acted entirely in conformity with the orders of Government.

And was your action approved by Government?—My action was approved by Government.

And did you communicate the orders of Government to His Highness the Gaekwar in respect to your action with regard to this marriage?—I did.

Will you just tell me if this is the draft of the *yad* which you communicated (hands a paper to the witness)?—that is the draft *yad*.

The Advocate General It is dated the 29th June 1874.

Sergeant Ballantine said that, for reasons no doubt satisfactory in themselves, the Crown solicitors had refused the other side permission to see these documents. He did not say as objecting to his learned friend putting them in, but he would ask his learned friend to put in the whole of the correspondence, and not an isolated letter.

The Advocate General said he did not wish to go into the whole of the correspondence, and in that case he would merely put it that "the action was approved of by the Government of India."

The Advocate General (to the witness) Now, you were asked, Colonel Phayre, with regard to the appointment of Mr. Dadabhoy as Dewan to His Highness, and you stated that the Gaekwar asked your opinion on the subject?—Not himself personally at first, but through his karbharea.

Well, you tell me whether on the 27th August 1874 you addressed a *yad* to His Highness with regard to the appointment of Mr. Dadabhoy?—Yes.

The Advocate-General (to the Court) —I put in his *yad*, or rather the translation of it. It is dated, 27th August 1874.

The Advocate General (to the witness) From the time of Mr. Dadabhoy's resignation as Dewan to His Highness, did you give him all assistance in your power in the performance of his duties?—I did.

Were any complaints ever made to you by Mr. Dadabhoy that he did not give him that assistance—No, on the contrary Mr. Dadabhoy more than once acknowledged the assistance I had given him—on the matter of the Sirdar's cases, and others.

You stated that certain persons were in the habit of giving you information, were they persons employed by you, and did they voluntarily come to give information?—They came voluntarily.

Did you at any time pay or authorise payment to be made to any person for information so given you?—Never.

I don't propose to take you through the khureets of the 2nd November, but you will remember that in that khureet two particular charges are made against you, first in regard to some business of Chanderao Kuddoo the Sirdar, and, secondly, in regard to the petition of some Scindee cultivators. I wish to ask you whether the facts in regard to these two cases are correctly stated in that khureet?—Oh 'no'.

Had you at any time any conversation with His Highness the Gaekwar with regard to that khureet?—Yes, I had.

When did you have your conversation with His Highness in regard to these khureets?—On the first day he came after I received it; that was Thursday, the 5th November.

Will you tell us what that conversation was or the substance of it?—I mentioned to His Highness about the khureet, and I expressed my extreme regret that such a khureet had been sent. The conversation was to the purpose that the allegations made were not correct.

What did the Gaekwar say in regard to that?—The Gaekwar said that it was Dadabhoy, his minister, who had written it, and I think I explained to His Highness that the object of allowing him to select his own minister was that he might be responsible for all communications made to His Excellency the Viceroy and the Government of Bombay.

Now, with regard to the transaction of the 9th November, from the time that you took the two or three drops from the tumbler that you have spoken of until the time when you threw away the greater part of the contents and had your attention called to the dark sediment that remained, had any one access to that tumbler?—Oh 'no'

From the time that you first noticed this sediment in the tumbler until the time when you handed it over to Dr. Seward, had any one access to the tumbler?—No one came into the room, I was by myself.

Now you said that the sediment or substance which you noticed in the tumbler was of a different colour from the colour of pummelo juice, was there anything in the colour of the sherbet that morning to attract your notice?—No, it did not attract my attention at all, the upper part of it was as clear as possible.

What is this sherbet, is it nothing more than the expressed juice of the pummelo?—No, nothing else.

The Advocate General (to the Court) I don't propose to ask anything more.

Sergeant Ballantine, with the permission of the Court then asked the following question Did you communicate with the Viceroy with regard to the khureeta of the 2nd November?

The witness I forwarded my explanation to the Bombay Government with the khureeta, as usual.

DR. SEWARD'S EXAMINATION.

Dr. Seward was next called and examined by Mr Inverarity. He said—My name is George Edwin Seward. I am Surgeon-Major in the Bombay Army, Residency Surgeon at Baroda, and Cantonment Magistrate at Baroda. I was in Baroda during the month of September, October, and November 1874. I remember attending Colonel Phayre as medical attendant during the months of September and October. During these months I occasionally saw him. I saw him regularly when he was suffering from a boil.

The President Was that in September?—I am not certain whether it was in September or October. I could tell by referring to my prescriptions.

The witness continued I prescribed for him during that time. I dressed the boil myself, except towards the latter end, when Colonel Phayre used to do so. I gave him adhesive plaster at first. Afterwards I gave him carbolic acid with cotton and oil and a little plaster. Latterly I gave him collodium to make the wound contract. I remember the 9th of November I received a note from Colonel Phayre in the morning of that day. That was between half-past seven and half past eight o'clock. I can't remember exactly. I don't know what I did with that note. I believe I tore it up. The note was merely asking me to see Colonel Phayre on my rounds. I saw which of the Residency peons brought that note to my house. It was Mahomed Bux. On receipt of that note I went over to the Residency directly. I walked over. On coming up to the house I don't remember seeing any of the servants of the Residency. Before I saw Colonel Phayre I saw two servants at the end of the verandah. That is the verandah between the main building and the detached block, where Colonel Phayre's private office is. I saw Nursoo and another man whom I didn't know then. I have since learned the name of the second man, it is Rowjee. I saw them at the end of the verandah near the little wall. That is the dwarf wall described by Colonel Phayre. When Nursoo saw me he avoided greeting as very unusual. I was in the habit of saying "Well, Nursoo, how are you?" and so forth when I passed, and he generally made many salaams and seemed very pleased. On this occasion he appeared to be very grave. He would not look at me, but looked straight down the verandah, and he made his salaam but not at me. There was something odd in the man's manner. I remembered this oddness of manner afterwards. I noticed it at the time. Rowjee came forward with great alacrity, and took my hat and umbrella. That was a very unusual thing. I think I never received that attention before. He didn't say anything. I may have asked him if the *bāra sahib* was in the office, but I don't remember. The servants at the Residency, and among them Nursoo and Rowjee, knew that I was the Doctor. I went into Colonel Phayre's private office to see him. That is the room described by Colonel Phayre as his private office, in which the wash-hand stand was. I shook hands with him, and he then went to the wash hand stand, and, as far as I remember, took up a tumbler, and showed me a sediment at the bottom of it and said, "what is that?" There was a very small quantity of liquid in the tumbler, there would be probably something less than a dessert-spoonful. There was a spoonful of liquid, and about five grains of sediment. It may have been more and it may have been less. I mean grains in weight. When Colonel Phayre asked me what it was in the glass, I looked at it and shook it, and observed a little powder rise out of the sediment as I shook it. I added a little water from a goblet near. I then observed the play of colours on the glistening part of the sediment, and there was a separation of the glistening part and non-glistening part. There was a distinct separation. We then began to suspect the presence of some poison, I mean Colonel Phayre and myself. Colonel Phayre said that he had suspected foul play, that he had heard of attempts against him, or that there would be attempts, but he had never himself suspected foul play until this time. He described now he came to find this sediment in the glass.

Sergeant Ballantine Colonel Phayre has described all this himself.

The President I don't think Sergeant Ballantine disputes the accuracy of what Colonel Phayre has said on this point.

The witness continued Colonel Phayre said that he had

taken his sherbet about half an hour before, and had had anæsthesia, and a sense of soreness in his stomach, and he made a motion with his hand (witness shows how) which was very suggestive. I think he added that he felt confusion, in fact, he had risen from his writing on account of the confusion in his head.

Sergeant Ballantine : It is not, my Lord, very clear what the witness means on this subject. I don't know if he means that he used the words "sense of soreness."

The President : I understood that he said he had sense of soreness, and, with a gesture, he made, showed where it was.

The witness : That is it.

The witness continued : Colonel Phayre showed me a place outside of the window where he had thrown the sherbet. I looked at the place with Colonel Phayre to see if I could find anything. A portion of the verandah was wet (the outside portion), and also the land outside. Evidently some fluid had been thrown there. There were one or two *flockular* like little pieces of white cotton on the ground. At all events they were not the proper constituent of sherbet ; you would not expect to find them in sherbet. Colonel Phayre told me he had suffered these symptoms on previous days. He said he had picky pains. I took away the tumbler to analyse, the contents. On my way out I again saw these poons, Nursoo and Rowjee. I carried this tumbler away in the pocket of my coat (I had a pea-jacket on at the time) and over that I placed my handkerchief so as to conceal it. There was considerable bulging of course of the pocket. Rowjee was very officious. He immediately brought my umbrella and "topes," and looked at my face and scanned my person, and his demeanour was altogether different from that of the usually passive putawalla of the Resident. Nursoo was still very grave, and his manner was unusual. I returned from the Residency to my house on foot. On the way back I met the man who brought the note to me from Colonel Phayre originally, at the bridge called the Kance's bridge. That is in the middle of the *maiden* between the Residency and my house.

Mr. Inverarity : What did he say to you ?

Sergeant Ballantine : I don't know, my Lord, that this can be evidence.

The Advocate-General : They propose to ask this question because we shall show eventually that between the time when this man started from Colonel Phayre's office with the note and the time of his reaching Dr. Seward's bungalow with the note he had conversed with Salim.

Sergeant Ballantine : Then you can call him to prove it.

Mr. Inverarity (to the witness) : He made a communication to you?—Yes, it was in reply to a question put by me. I met him on the bridge, so he must have come across the *maiden*. After I got over the bridge I saw two of the Gaekwar's horsemen coming towards the Residency. I recognised one of them ; his name was Yeshwantrao. That is the man who used to accompany the Gaekwar on his visits to the Residency.

Mr. Inverarity here said that they had now reached the point about the analysis of the sherbet, and as the examination would probably last another hour, and it was now half-past four o'clock, it might be convenient to break off.

The Court then adjourned till Monday morning.

SIXTH DAY.

BARODA, MARCH 2.

YESTERDAY, at eleven o'clock, the Commission resumed its sitting. All the members were present. Sir Lewis was absent from indisposi-

tion, and His Highness Mulharao only came into Court after tiffin.

As on the previous days, the Advocate-General and Mr. Inverarity, instructed by Messrs. Hearn, Cleveland, and Lee-Warner, appeared for His Excellency the Viceroy in Council ; Sergeant Ballantine, Mr. Branson, Mr. Purcell, and Mr. Shantaram Narayan, instructed by Messrs. Jefferson and Payne, appeared for the Gaekwar. Mr. Vasudeva Jagannath, pleader of the High Court, also watched the proceedings on behalf of His Highness.

Mr. George Taylor and Mr. B. M. Waglé were present on behalf of the Ranees and the infant child of His Highness the Gaekwar.

The Maharajah Scindiah was present yesterday looking quite recovered from his brief indisposition. His Highness was dressed in white muslin with gold embroidery around the edges. On his neck he wore two necklaces, one of large emeralds, partly concealed by the other, which consisted of several rows of splendid pearls. Below these was a *plastron* of diamonds of immense value which flashed in the light. A very large emerald pendant from one of the necklaces hung over the *plastron* that partly covered his capacious chest. From his left ear hung a cluster of pearls of great price ; one or two were considered sufficient for the right ear. On his wrists were bracelets studded with diamonds *en suite* with those on his chest, and a diamond, the size of a hazel-nut and brilliant as a star added lustre to one of the fingers of his right hand, while a larger emerald gave value to the other. The sight of His Highness blazing with jewels of inestimable value might have made an Empress pale with envy. But the Maharajah wore them all in the way of business ; and he condescended over the Hindustani translation of the notes of Colonel Phayre's cross-examination—which took place on Saturday during His Highness's absence—quite oblivious of the magnificence of his *parure*.

Yesterday was devoted entirely to the two scientific witnesses—Dr. Seward and Dr. Grey. They proved that in the sediment left in the tumbler from which Colonel Phayre had emptied the sherbet white arsenic and diamond dust were found. Dr. Seward also described the serious ailments of the ayah when she was in the hospital, and consented to have a second interview with Mr. Souter, to whom she then confessed her journeys to the palace. A police-

man was present during the interview between Dr. Seward and the ayah, and may or may not have interpreted between them—the Doctor has no belief on the point. He saw, however, only a common policeman—not a Khan Sahib. Dr. Seward admitted in cross-examination that he poured water on the sediment, and that he had not previously tested the water. Dr. Grey proved that in a package given him by Mr. Souter seven grains of white arsenic were found. With respect to diamond dust, Dr. Grey stated that the best authorities held it to be innocuous. An attempt to put into the witness's hand a passage from Dr. Chever's Indian Medical Jurisprudence to show the belief of the natives with respect to diamond dust brought up Serjeant Ballantine, who objected that the question involved was not one of science but of fact. The Chief Justice allowed the force of this objection. The cross-examination of the witness was deferred till this morning. At the close of the proceedings an incident occurred which was not without interest, though it was too brief to serve as a "Scene in Court." Serjeant Ballantine went across to the part of the dais, where His Highness the Gaekwar was seated, and began to speak to him, Mr. Payne serving as interpreter. Dr. Seward interposed, but the Serjeant held to his right to speak to his client, and told the Doctor, who appeared much horrified, that he would as counsel speak to the Prince as long as he liked. Mulharao bent over the rails and spoke eagerly to the learned Serjeant, thanking him with many smiles for his exertions in the case. A very cordial hand-shaking closed the little interview. The Prince walked to the door with Dr. Seward, and drove off with him to the bungalow which serves for the moment as a sort of State prison. His only guard consisted of four sowars of the 1st Native Cavalry.

DR. SEWARD'S EXAMINATION.—*Contd.*

At the sitting of the Court Dr. Seward was called and examined by Mr. Inverarity as follows :—

Mr. Inverarity: You remember, Dr. Seward, that when the Court rose on Saturday you had got to the point in your evidence where you had reached your house with the tumbler containing the sediment. When you got to your house with the tumbler, what did you do; did you

analyse it at once?—I put it in a book-case in my dressing room, and closed it.

Serjeant Ballantine: A little louder, please. I am sorry to disturb you, but really your evidence is very important.

Mr. Inverarity: And did you keep it there till you had got the apparatus for testing it?—I did.

Mr. Inverarity: Did you remove—

Serjeant Ballantine (interrupting): Ask him, please, what he did.

The witness: I then procured some fresh wood charcoal. I may state that before I did so I put a little of the sediment under a microscope on a . . .

Mr. Inverarity: And what appearance did the sediment present?—There were some white opaque, granular bodies, which struck me as being like powdered alabaster.

Any other substance?—There was a white crystalline substance.

The President: White?—Yes, white and transparent.

Witness: There were one or two dark, gritty particles, dark particles. I observed nothing else when the sediment was under the microscope. I then put the sediment on the glass slide in a glass mortar which I had very carefully cleansed. I then got some charcoal and rubbed up this sediment with a little of the charcoal. I then introduced this mixture into a little test tube. It was new and unused. This I heated in the flame of a spirit lamp. At first there was a little moisture deposited upon the upper part of the tube on the inside. I removed that moisture with a little piece of blotting paper without touching the mixture. I again heated the mixture in the flame. On removing the tube from the flame I observed a metallic ring. I have that tube with me, and I produce it.

The President: Did you say a metallic ring?

Witness: Yes; perhaps I might call it a deposit. This tube I now produce. There is the ring about three-quarters of an inch from the top. (Tube put in and marked M.) On heating the tube again a little I withdrew it from the flames, when I observed what was evidently a crystalline deposit on the tube. In this case it was both above and below the ring. Under the microscope the crystals were seen to be lustrous and octohedræt. These indicated arsenic. I got the charcoal from my dispensary.

I made no further experiments that morning. I had no chemicals. I received the letter produced (Exhibit F, published in the *Times of India* Baroda Supplement of the 1st instant) from Colonel Phayre. I did not send a reply. The letter reached me either as I was getting into my tonga to go to Colonel Phayre, or on the road to the Residency. I saw Colonel Phayre at the Residency. I told him the result of my analysis. I wrote the letter now produced in the presence of Colonel Phayre at his office, and in the presence of Mr. Boevey.

Mr. Inverarity (to the Court) : This is a letter from the Residency Surgeon to the Resident.

(The following letter was then marked, read, put in, and marked N.)

From the Residency Surgeon ; to the Resident.
SIR.—In reply to your letter just received (1 p. m.), I have the honour to report that so far as my chemical appliances allow me to pronounce an opinion upon the quality of the sediment which you this morning entrusted to me for examination, that sediment is arsenic.

The quantity was sufficient to allow of its being tested by reduction with charcoal, and the result I have shown you.

The metallic ring deposited upon the tube in rich profusion, and the crystals also deposited point almost certainly to the presence of arsenic.

I purpose despatching the remainder of the sediment by to-morrow's mail train to the Government Analyser.

The quantity of the sediment would almost assuredly have proved fatal had it been swallowed.—I have, &c.,

G. EDWIN SEWARD,
Baroda, Nov. 6, 1874. Residency Surgeon.

The witness continued : I threw the remainder of the sediment that remained in the tumbler on a small piece of blotting paper made into a filter. Some portion of the sediment remained in the tumbler. I poured a little water into the tumbler and passed that also through my bottling paper filter. By that means the sediment remained on the blotting paper after the water had passed through. I dried the blotting paper by holding it near the chimney of a lamp. When the filter was thoroughly dried I folded it up and put it in an envelope. (An envelope is shown to the witness.) This is the envelope into which I put the filter. This is my seal on it.

Mr. Inverarity : Is this the blotting paper filter you put into the envelope?—I assume it

is. This is my writing on the back of the envelope. That was written at the time of despatch. I used the envelope at night. I despatched it in the morning by registered letter post to Dr. Grey. In doing so I put the envelope containing the blotting paper into another large envelope. (A second envelope is shown to witness.) This is the envelope in which I enclosed it to the Chemical Analyser. I didn't write myself any letter to Dr. Grey on that occasion. I enclosed Colonel Phayre's letter. (Exhibit F.) In forwarding that letter I made this red ink endorsement upon it :

"For the information of the Chemical Analyser.
Please return the original."

"November 9, 1874. G. E. SEWARD."

I sealed the envelope addressed to the Chemical Analyser with the same seal as the one with which I sealed the small one.

Mr. Inverarity : We propose, my Lord, to have these two envelopes marked separately; the small envelope containing the blue blotting paper we propose to mark "O," the large envelope marked P.

(The two envelopes were put in and marked accordingly.)

Witness continued : Subsequently I received the following reply :—

(Reply put in and marked Q.) It was as follows :

MY DEAR SEWARD,—I have duly received your letters and its enclosures, viz, a demi-official from Colonel Phayre, and a small packet which contained a few grains of greyish coloured powder mixed with numerous gritty glistening particles.

I have examined this powder and find it to consist partly of common white arsenic and partly of finely powdered silicious matter. This silicious matter under the microscope appeared to be either powdered glass or quartz, being most like the former. Some of the particles had a purplish or rose-coloured tinge, which fact may perhaps furnish you with a clue as to its source. If you wish an official reply in addition to the present I shall send it.

Herewith is returned Colonel Phayre's letter. I shall keep the remains of the powder in my possession till I hear further from you.—Believe me, &c..

W. GAY,

Acting Chemical Analyser to Government.
Grant College Laboratory, Bombay, 11th Nov. 1874.

Witness continued : I made some further experiments, with the sediment some days after. I removed the mixture from the tube and the threw it on the surface of some water. I then

allowed the heavier particles to sink to the bottom and took off that which was floating. After repeating this process a few times, I collected what I had just found upon the slides, which I now show to the Commission.

The President : Did you say three times ?

Witness : Several times, my Lord.

The President : If, Mr. Inverarity, you will kindly turn more this way we can hear better.

(The punkah was here stopped, so as not to waft away the particles.)

Witness continued : These glass slides produced are the slides upon which I deposited the sediment. I placed it under the microscope and saw that it consisted mainly of these lustrous crystalline fragments. (A box of three glass slides was here put in and marked R.) I then passed a second slide over these particles ; it presented the appearance it now bears. It was instantly scratched. The scratches were not there before. I rubbed them together with the sediment between the two slides. (The two slides were put in and marked S.) The conclusion I came to was that whatever the sediment was it was not glass, and that it probably might be diamond dust, of which I had heard, because the particles were so exceedingly lustrous. I should rather have said of which I had read either in the papers and in Dr. Grey's letters.

Mr. Inverarity : I believe, Dr. Grey, you received certain information which you afterwards communicated to Colonel Phayre on the 10th November.

The President : Did you receive it or Dr. Grey.

Mr. Melvill : Not Dr. Grey ?

Mr. Inverarity : No ; Dr. Seward.

The President : You mentioned Dr. Grey by mistake.

Mr. Inverarity : Oh ! I beg his pardon. I meant Dr. Seward.

Witness : The letter now produced is the letter communicating that information. I sent a short note first communicating the information to Colonel Phayre. This now produced is the formal one communicating the information.

Mr. Inverarity : I will ask, my Lord, to have this marked for identification.

Sergeant Ballantine : No ; I think some mistake might arise about that. I suggest that it is not desirable to have any document marked until they are proved. There are a great number of them and there may be some

blunders. If there was only one it would not matter.

The President : It would be better not to mark them till they are identified.

Mr. Inverarity : You told us on Saturday, Dr. Seward, that on examining the tumbler in Colonel Phayre's office you saw a thin film come to the surface. Is that appearance an indication of anything ?—It is an indication of arsenic. From the time I received the tumbler containing the sediment from Colonel Phayre no one had access to the tumbler or the sediment, or the apparatus with which I tested it but myself.

Mr. Inverarity : I am now going to ask you on a different point altogether ; do you remember the ayah Ameena being under your care ? Look at your book if you like.

The witness : On the 17th or 18th. I believe it was the 18th. When she came under my charge she had fever, and was in much pain on the right side. She appeared to have congestion of the liver, and the base of the right lung and some of the wind tubes were affected. I considered her illness a serious one. I saw her before she was sent to hospital, in Mr. Boevey's compound, in one of the out-houses. It was by my advice she was removed from Mr. Boevey's compound to the hospital. I had a conversation with her in the hospital.

Sergeant Ballantine : I don't know how that can be evidence, my Lord. I have made my objection. The matter need hardly be argued.

Mr. Inverarity : Did you convey a message from her to any one ?—Scarcely a message. I went for her to Mr. Souter.

What made you go ?—She appeared to be very ill and restless, and I thought she might have something on her mind. I told her that if she had any burden of that nature it might help to her recovery if she unburdened her mind. She then said something to me, and it was in consequence of what she said that I went to Mr. Souter. I have no personal knowledge as to whether after I went to Mr. Souter he came to the hospital. I don't remember on what day I went to Mr. Souter. I have no note about it. It could not have been more than two or three days after the 18th November, perhaps not so many.

Sergeant Ballantine : We have the date, my Lord ; it is the 21st.

Mr. Inverarity : We have the date that Mr. Souter went to the hospital ; but not the date that Dr. Seward went to Mr. Souter.

DR. SEWARD'S CROSS-EXAMINATION.

The witness was then cross-examined by Sergeant Ballantine as follows :—

Had you known that the ayah had been examined by Mr. Souter ?—

The witness (interrupting) : Yes.

Just wait till I have finished my sentence, please, you don't know what a comfort it will be to both of us. Before she came to the hospital ?—Yes.

Had you learnt from Mr. Souter what the nature of her communications were ?—Not a syllable.

Of course, you know what the nature of the enquiry was ; the purport of the enquiry ?—Yes.

You say that when she was in the hospital she was uneasy and restless ?—It was so.

She had a blister on, hadn't she ?—I don't know whether she had at that time.

Did not you put a blister on ?—The ayah herself says you put on one.—No ; they call a plaster a blister. I did put on a plaster of belladonna, but not at that time.

She had a bad liver ?—Yes ; she was under Surgeon-Major Lewis's care.

You attributed the uneasiness that she exhibited to mental depression, not to the state of her liver ?—It appeared to me it might be so.

Yes, "appeared to you ;" different from the appearance of physical pain ?—Yes, she had been much relieved by the treatment she had received.

She had been much relieved, but still there was the oppression on her mind, and the painful appearance of her countenance ?—Yes.

As if her conscience were at work ?—It appeared to me so.

Tell me, is that the regimental hospital ?—Both the regimental and also the staff hospital.

Are you the attendant there ?—No, Surgeon-Major Lewis is.

How did it happen you were in attendance there ; I dare say it was all perfectly regular, but you say Dr. Lewis was in charge ?—Surgeon-Major Lewis is a friend of mine, and, as I knew the ayah and had an interest in her, I went to see her.

Did you communicate with Surgeon-Major

Lewis before you went ?—No, it was not necessary ; he was a friend of mine.

Then am I to understand that you prescribed for her without seeing Dr. Lewis ?—I didn't say I prescribed for her.

Yes, you put on a plaster at least ?—That was outside.

But don't you call that a prescription ?—It was outside the hospital.

Oh ! I didn't understand you. I thought you meant outside her skin. (Laughter.) But when she got inside am I to understand that you did anything for her ?—I don't know, but if you were to call the hospital assistant he would be able to—

Oh ! no, I won't call him ; I have far too great a respect for any thing you say. When she got inside, did you do anything for her ?—I don't think so ; but if you call the assistant he will be able to tell you.

Oh ! but, I'll not do that, you have been giving us very full particulars on other points. But if you did not, it occurs to me to ask what you went for ?—Because I had an interest in the ayah.

You "had an interest ;" and noticing the troubled state of her mind, you assisted her to unburden her conscience ?—It was so.

Did you and the ayah understand each other in your language ?—Yes.

You had no interpreter ?—No.

Your memory is clear on that subject ?—I know of no interpreter ; there was a policeman there.

That, you know you, was sure to compose her mind. "There was a policeman there." Who was the policeman ?—Heaven knows ; I don't.

Don't mention heaven : you know I can't call heaven.—But you ask me of things I know nothing of.

But I am at liberty to ask you if you know a policeman ?—I know none of the police.

Do you know Akbar Ali ?—I know him.

Was it he ?—No.

Or Abdool Ali ?—I don't know. It was an ordinary policeman.

What was he doing in a sick woman's room ?—I believe she was under police surveillance.

Was it at the time you advised her to unburden her mind there was a policeman in the room ?—I don't know if he was in the room or at the door.

Was it, I ask you with all respect, in accordance with usual medical practise for you to visit the patient of another doctor?—I don't know what the usual practise may be, but I am very friendly with Surgeon-Major Lewis, and I went to see this patient without communicating with him.

I ask you, Dr. Seward, and I am sure a man of your position and experience can answer me, was it in accordance with the usual rules of your profession that you should visit the patient of another medical man without communicating with him? A "yes" or "no" answer is open to you.—It may or may not be: it depends upon the relations between the medical officers themselves.

Am I to understand by that, that you mean that if you feel yourself on friendly terms with a medical officer you may visit one of his patients without communicating with him?—I tell you simply what I said; I have nothing to hide.

The President: You can say whether it is or is not.

The witness: I suppose with a private patient, as a matter of etiquette, it would not be proper.

Serjeant Ballantine: Oh! if a patient is at the hospital, you would not dream of going to that hospital to visit a patient there?—No.

I take it for granted from his appointment that Surgeon-Major Lewis is fully competent to deal with a matter of this kind?—Oh! perfectly.

Just tell me, do you know a person of the name of Bhow Poonakur?—I have seen him, but I can't say I know him.

When was it you saw him?—It was after the departure of Mr. Boevey from Baroda.

You had never seen him before?—Not as far as I know.

Have you seen him since?—Since what occasion?

You have said you had only seen him once, and you have said you had not seen him before Mr. Boevey went away, have you not seen him again since?—As far as I know I have not seen him since, have certainly had no communication with him.

When did Mr. Boevey go away?—I can't tell that.

Now I won't ask you again, but merely that there may be no mistake, you are quite sure you have not seen Bhow Poonakur since that?—Not to the best of my belief and knowledge.

With your permission, I will take you now

to the occurrences of the 9th November. Oh! but before that there is one thing in relation to this conversation with the ayah that is important. I understand that it was a conversation between you and her, and that there was nobody interpreted?—To the best of my belief it was simply a conversation between the ayah and myself.

And do you mean to say the policeman by did not interpret?—To the best of my belief there was no interpreter.

That is rather apart from my question. Did not the policeman interpret?—You may press me from this time until Doom's-day, and I can tell you no different. I can tell you no more than I know.

I do not want to stay here until Doom's-day, and I don't intend to unless something happens that I neither anticipate nor wish.

Witness: But you will.

You cannot remember whether the policeman interpreted or not?—I have told you.

Tell me again: What did you tell me?—That I don't remember.

May he have done so?—It is possible.

Do you think he did?—I do not know whether he did or not. It may be possible, but I do not remember.

I asked you, Dr. Seward, whether you did not get every single word of her message out of his mouth?—I really do not remember. You say every word of—in fact, you ask me about a matter I do not remember. Your object is to make me a go-between. I see it is. That is your intention.

Is that my intention? If, Dr. Seward, you always are as right in your medical diagnosis as you are in that, you will be the cleverest doctor alive. That is my object. So, now, please tell me, did you get the substance of it through an interpreter?

Witness (with great emphasis): I can not tell

Pray, do not be angry. What do you think?—I think nothing about it.

What do you believe?

Witness (to the bench): If this gentleman goes on from this time until Doom's-day he will get no other answer.

The President: Serjeant Ballantine is entitled to ask you whether you believe or remember—(Dr. Seward interrupting: He must take my answer)—as he has a duty to perform. If you have no belief on the subject you should say so.

Witness: I have no belief.

Cross-examination continued: Do you mean to say that you talk Hindustani?—I talk it, but not fluently.

I will now take you to the 9th November. There was an expression you used, unless I am mistaken, that Colonel Phayre told you he had had some intimation that it was probable he might be poisoned.—Did I say so?

I will refer to your examination. It is important, and I do not want to be under any mistake.—If so, it was a mistake.

You said: "Colonel Phayre said that he had suspected foul play, that he had heard of attempts against him, or that there would be attempts, but he had never himself suspected foul play until this time." Did he tell you from whom he had heard that?—The only statement to the best of my belief was that he had been threatened, but that up to that time he had never suspected foul play.

When you got to the Residency, you saw the tumbler in which was contained the liquid and the sediment?—Yes.

When you saw it, was the sediment in solution, or did it appear independent of the bottom of the tumbler?—Colonel Phayre held it obliquely, and I saw it in the lower part of the tumbler.

Was it mixed with the liquid, or was it independent of it?—It was a sediment not diffused in the liquid.

Was there sufficient sediment to exhaust the liquid so as to make it merely damp, or when shaken did it get into solution? There was just enough—it is difficult to say what to answer to—

You know Colonel Phayre has told us he saw a dark brown substance at the bottom of the glass. That would not be consistent with diamond dust or arsenic, would it?—It would not be dark brown, I imagine.

Well, then, you can answer my question; that it would not be consistent with either diamond dust or arsenic?—It would not.

So that there must, at all events, have been some additional element in addition to these two, supposing them to have been present to cause this darkness?—Will you kindly repeat the question?

Certainly, I will always endeavour to make myself as clear as possible. (Question repeated)? I decline to give an opinion on that subject.

Serjeant Ballantine: Now, now, Dr. Seward!

The President: What is that, Serjeant Ballantine?

Serjeant Ballantine: If your Lordship will follow the last two questions you will see that Colonel Phayre stated that there was a dark brown substance in the glass. I have asked Dr. Seward if that appearance is consistent with the presence of arsenic and diamond dust, and he says no. I now ask him if there must not have been some other element besides those two substances, and he says "I decline to give any opinion."

Dr. Seward: It is not a matter which came under my cognizance.

Now, I suppose, you must mean by its not coming under your cognizance, under your analysis?—I saw no dark brown substance, that is what I mean.

Then how would you describe the sediment you saw?—It appeared to me to be a faint fawn colour, like some of these sea shells.

When you called it—I think you have done so, I don't assert it, I speak from recollection—when you called it a pale grey, that would be a fair description?—I think that might be a very fair description of the colour.

I then understood you that you mixed a little water with it?—Yes.

And I take it for granted, Dr. Seward, that you had not the means of analysing that water before you put it in?—I did not analyse it.

I suppose that an analytical chemist analyses all the substances with which he works for the purpose of analysing?—As a general rule.

And there are instances—I was going to say numerous instances—on record in which the very poison supposed to be present was found in the very substances which the chemist used?—There are such instances.

Now, Doctor, you said that including the liquid there was about three-quarters of a dessert spoonful?—About a dessert spoonful.

In your examination you said there was a dessert spoonful of liquid and about five grains weight of powder?—Yes.

What did you do with the liquid?—You added some water to it, and then what became of the water?—Do you mean ultimately?

I mean on the morning of the 9th November. I am keeping in Colonel Phayre's rooms to the time of your departure?—I did not nothing more with it.

And then you eliminated it?—Anything I did in the way of analysis was done at home.

How did you take it?—I took it away in the tumbler.

Oh! yes, I beg pardon. I remember you told us, and it was intimated that the size of your pocket probably accounted for the attention of Rowjee on the occasion. You then used the charcoal dust?—Yes.

They call it the test by reduction, do they not?—Yes.

It eliminates several substances which can subsequently be converted again into the original mixture?—Yes.

So that if what you suppose to be arsenic be really arsenic you could actually show it by a further test?—Undoubtedly.

You can bring out the actual salt, or globule—no, that is not the word—or whatever the term is, you can bring it out completely?—Yes.

I suppose that the metallic ring you have mentioned—supposing you are correct does not prove that the metal is arsenic?—So far as the octohedral crystals are, they are certainly indications of arsenic.

And these crystals exist in the tube?—They are there. •

They are considered almost conclusive, but sometimes by a further test you can ascertain the fact?—Yes.

Won't some other mineral poisons produce exactly the same appearances?—Yes.

I mean corrosive substances?—They won't stand the test of the microscope.

Tell me where you got the charcoal from?—It was sent to me by my hospital assistant. I think he brought it with my other apparatus.

Then did you test the charcoal?—Not at that time.

Does that imply that you tested the remainder afterwards?—It was so tested.

Did you test it?—No, the Chemical Analyser to the Government did.

Confine yourself to what you did. I take it, then, that you did not test the charcoal you used, but sent the remainder to Dr. Grey?—I did so.

Now I want very much to know—I suppose you tested both the liquid and the sediment?—I passed the liquid through the filter and sent the sediment to Dr. Grey.

But I mean in your own analysis. Did you test the liquid?—No; I got rid of the liquid.

The liquid was thrown away, and I only analysed the sediment.

Then you eliminated the sediment from the liquid and tested the sediment only?—Yes.

Do you think that such a course has been taken before, to throw away part of what is supposed to be the poisonous matter?—It may have been an omission on my part.

Very well. If you say that it is quite sufficient, you only tested the arsenic?—Only the arsenic.

There are, I believe, poisons, the foundation of which is copper?—Yes.

What are they called?—One of the copper poisons is verdigris, what you find inside your pens.

You did not test for copper?—No.

There was nothing to indicate the presence of copper?—Nothing at all.

I suppose the liquid would have told you at once?—I think the colouring would have shown that at once.

Can you from the results of your analysis account for the coppery taste Colonel Phayre described as having experienced?—Do you mean in the sherbet?

Yes?—No.

Just tell me what is the specific gravity of arsenic in relation to water?—I do not remember.

Let me help you. It is 3 to 1?—I do not know, Dr. Grey can say.

Oh! very well, that will do. You can tell me this much; it is much heavier?—It is.

Then you don't mean to say it will float if it is heavier than water?—It is a peculiar property of arsenic that some will float and some will sink.

I do not think I have given you fair play in asking the question. I know that if you put some arsenic in water some particles will float; what I mean is this: supposing it has been thoroughly mixed and put into a tumbler, could it again get to the top?—I cannot say.

Well, I will defer that and ask Dr. Grey. Is this the first time, Dr. Seward, you have tested for arsenic?—Not exactly. I have tested at home with Professor Hoffman.

Have you sent for arsenic to make experiments since? Yes; one experiment.

Now, Doctor, did you weigh the sediment to ascertain how much there was?—No.

How much in proportion to the whole did

you experimentalise upon?—I think I must have taken one-third or one-fourth. One-third I should say.

Rather more than a grain?—Yes, I should say so.

Sending up the remaining two-and-a-half grains—if you are right—to Dr. Grey?—I think it must be a grain or two.

It is desirable to be correct. People talk of a lb. or two, and a cwt or two, and it is equally important in this question I will help you. Was it between one grain and one and half?—Between one grain and two

Now tell me, as I do not understand, your second process by which you brought out these shades which you say exhibited glittering particles?—Yes, I should be very happy to show you.

Yes; I am going to ask you to do so presently. Do you men you used the same materials you used before. Did you use the whole of the sediment you had got?—Yes.

After this had brought out a metallic ring, was there any residuum?—From what?

A residuum from your experiment?—Yes, there was

And you experimented upon the residuum? Yes, it was so.

Did you use it all up?—I put the whole of it in this tube.

You used it up. I perhaps don't use a scientific term, but I use a plain one?—Not all, there would be some of it on the slide

You brought out certain appearances which we have seen, and subsequently you brought out something else on these slides. Upon what did you operate with these slides?—That which I had already put into the tube after subjecting it to the heat

Am I right in this; you had worked with what was supposed to be arsenic. Did you then analyse further?—Yes, I did not say I worked up all the arsenic.

All you could? No, I detected some in the other part of the material.

That leads me to ask you, supposing if that is correct, is it more than one-eighth of a grain that is in the ring?—I cannot tell.

May it be more than one-sixteenth?—I cannot venture an estimate.

Then you don't know anything about it?—The tube is here for the purpose of analysis, and you can estimate it.

And we will have it. The residuum left in the tube, what was it?—Dry charcoal, and what was mixed with it.

How much was there of that?—Of the whole? What you took for the further experiment?—I took the whole.

How much was it?—I took a pinch. Was there a grain?—More.

One and a half grain?—about a grain and a half.

I should ask Dr. Grey the question. Am I to understand you did not weigh the quantity of charcoal with which you experimented?—[I did not, there was no necessity to do it]

The President His Highness the Maharajah says that when the interpreter is speaking, Dr. Seward always begins to speak, and he cannot follow what the interpreter says. You will try and avoid that no doubt.

Sergeant Ballantine It is my fault, no doubt, in putting the questions too rapidly. I will try and avoid it. (To witness) Your last experiment was made upon the pinch which remained in the tube?—Upon the whole

That would be about a pinch?—It was upon the pinch I took out. I cannot say how much

And you say that by the process you adopted you brought out that colouring upon the sides?—Not a colouring.

Well, I say colouring, because my eyes are not microscopic, and I call it so?—The crystals

Well, we will call it colouring. And I suppose if you are correct about this that the scratches will be indicated by a renewal of the experiment with other slides?—Quite.

In a letter, sir, of yours that was read, letter to Dr. Grey, it commences—Oh! no, it is a letter from Dr. Grey to you—he says, “My dear Seward—I duly received your letter and its enclosures, namely, a demi-official from Colonel Phayre's.” Did you write any letter?—The letter to which that refers was Colonel Phayre's letter, with my enclosure.

Why I ask this is because Dr Grey writes? “I duly received your letter and its enclosure, a demi-official.” that implies that there was a letter besides, was there not?—All that was written was that outside the envelope. I had a lame hand at the time, and it pained me to write.

But that was your first communication to Colonel Phayre, was it not?—Yes, my first.

You did not write to him the result of your

analysis?—No; I am not sure, you will find it on the envelope.

I think there is nothing upon it but a mark of identification?—Yes, I think you will find something upon it about arsenic.

Is arsenic used in the manufacture of glass?—I believe in some varieties of glass.

I do not think I have made some things quite clear. Could you with a clean piece of glass scratch it for us again by rubbing it over one of those slides?—I have told you it was done.

But you could show it now?—Yes, you could do it yourself upon a piece of glass.

Thank you, I will not run the risk of being cross-examined. It is one of those things which I am perfectly in the dark about, and I should like to see if it could properly be done?—Certainly.

The President: Could you do it now?

Witness: If the Commission will permit me.

President: Certainly.

Sergeant Ballantine: There are other substances which scratch glass?—I think there is a sort of corundum.

Or conundrum! (Laughter) Excuse my ignorance, but what is corundum?—I can hardly say. I do not know the chemical name.

Oh! pray don't give me that; is it quartz?—No I think it is a metallic oxide, but Dr. Grey can say in a moment.

We will now go to another subject. You have given an account of how Rowjee looked at you with great gravity?—No, it was Nursoo who looked grave.

Oh, yes; it was Rowjee who offered you the umbrella?—Yes.

Which he had never done before?—Never.

Now till Rowjee had said that he had put this stuff into his master's glass, had you ever mentioned that fact, or your relations to either of them to any human being?—Yes.

To whom—To Mr. Boevey.

That you had mentioned the demeanour of the servants?—Yes.

When did you mention it to him?—I cannot say; it was before Mr. Boevey left Baroda.

I am told Mr. Boevey left on the 25th December?—I don't know.

Will you take it as a matter of fact from me? Then can you say was it the day before?—I cannot tell you, it was between the interval on the poisoning and the time he left.

Of course, it must have been. Will you under-

take to say it was before the 24th of December?—It was certainly before that.

That is all you can say?—That is all I can say.

(The experiment of scratching the glass with the sediment was here introduced successfully.)

The President: You saw the scratches, Sergeant Ballantine?

Sergeant Ballantine: Yes; I saw them quite distinctly.

DR. SEWARD'S RE-EXAMINATION.

Re-examined by the Advocate-General: The ayah, I understand, had been your patient before she had been removed to the hospital?—She had.

Do you remember for how many days she had been under your treatment before she went to the hospital?—By me only one.

Was it part of your duty as Residency Surgeon to attend the Residency servants?—If very ill, it was.

In serious cases?—In serious cases.

What was your reason for having her removed to the hospital?—Because she appeared to be too seriously ill to be attended to where she was.

That was in the compound of Mr. Boevey's bungalow?—Yes, in a hut.

Was your visit to her at the hospital for the purpose of prescribing for her?—Scarcely that. I went to see how she was. I examined her lungs. I felt an interest in the woman as she was Mr. Boevey's ayah.

In the hospital was she in a separate room or in the ward with other patients?—In a separate room.

Where do you say the policeman was when you went into the room? Was he sitting or standing at the door?—I think he was standing at the door, but I paid no particular attention at the time.

Did any one go into the ayah's room with you when you visited her on this occasion?—I think one of the hospital assistants went with me.

Do you remember which hospital assistant it was?—No, I do not.

You say you do not remember who the policeman was? Can you tell me what description of policeman he was? Was he of the Bombay or local police?—He was a Bombay policeman; we have no local police here.

What was his dress ?

Sergeant Ballantine :—Oh, if you say who he was, I will accept it.

The Advocate-General : I do not know. I only want to show he was an ordinary police sepoy. (To the witness) : Did he appear a police sepoy or an officer of police ? Was he a havildar ; had he lace on his coat—No, he was an ordinary policeman and somewhat seedily dressed.

Dr. Seward, you speak Hindustani, but not fluently ?—Not fluently.

Do you speak it well enough to dispense with an interpreter in an ordinary conversation ?—Yes, in small conversations.

Would it be an ordinary thing for you to ask for assistance ?—I frequently do so when I am not able to make myself understood. I call in the assistance of any one by.

Now we will go to the 9th November. We will leave the ayah. You say that the sediment in the tumbler appeared a pale fawn-colour or grey ?—Yes.

Did you notice the colour of the liquid when you first saw it ?—Yes, it was the dull pink colour of pummelo juice.

About how much water did you add ?—I think possibly about a table spoonful.

Do you remember from what vessel you took that water ?—It was a vessel standing upon the wash-hand stand, but I have no recollection of what sort. To the best of my belief it was a goblet.

You took the first water that came to your hand ?—Yes.

On your going home you said you got some charcoal brought with your apparatus by the hospital assistant. Do you know whom it was ?—It was a man named Abrahamjee. He has since quitted Baroda.

Was he a Jew or a Mahomedan ?—A Jew.

Now, where was Abrahamjee at this time ? Was he in your house or did you send for him ?—I do not know whether I sent a note for him or whether he was called.

Whether you sent a note for him or called him, can you say whether or not you sent word for what you wanted the apparatus and the charcoal ?—I communicated that to no one.

And not to him ?—I did not to him.

Now, you were asked by my learned friend that if arsenic had been shaken in a bottle before being put in a tumbler, would that have the

effect of making the particles float ?—I cannot say.

Just answer me this question, would the preliminary effect be that ?—It might have that effect.

Diamond dust would naturally sink if left any length of time in a vessel :—Yes.

Now you say that when you detected the presence of arsenic, you ceased further trial ?—I did so.

What was your reason for that ?—For what ?

For ceasing further trial ?—It seemed to me sufficient.

Why did you not pursue the enquiry yourself ?—I had no chemicals or apparatus.

You saw that corundum will scratch as well as diamond ?—I think so.

And you think it is a metallic oxide ?—I think so.

Would the presence of the corundum be detected by chemical tests ?—I am not sufficiently acquainted to say.

I will reserve that for Dr. Grey. I want you to tell me, it is not clear in my own mind, when you noticed the film of which you have spoken ?—It was when I was examining the sediment before I had added any water.

Sir Dinkur Rao : In your opinion was the poison arsenic or diamond dust ?—Arsenic.

If diamond dust is administered to a person can he digest it without harm, or without poisonous effect ?—I have no knowledge on that subject.

The Court then adjourned for tiffin.

EXAMINATION OF DR. GREY.

When the Court resumed its sitting, Dr. Grey was called, and in examination by the Advocate General said : My name is Wellington Grey. I am Surgeon in the Bombay Army, and acting Chemical Analyser to Government. On the 11th November last, I received a registered letter from Dr. Seward, the Residency Surgeon at Baroda. It was a registered packet. (Exhibit P. is shown to witness.) This is the outer envelope of the packet. The seal was perfect when the packet reached me. The envelope contained a small packet and a letter. (Exhibit F. is shown to witness) This is the letter. (Witness is shown Exhibit O.) This is the envelope of the packet. It was sealed when I received it, and the seal was perfect, and the envelope bore the endorsement in Dr. Seward's handwriting, which it now bears. In this envelope (O) I found a small piece of blue blotting paper folded. Inside the blotting

paper I found some powder, $1\frac{1}{2}$ grains in weight. It was of a greyish colour. I noticed that it contained glittering particles. I analysed this powder by the usual process for the detection of arsenic. I first heated a little of the powder in a test tube. The result was that there was a white sublimate on the side of the tube. I next examined the sublimate under a microscope. I found that the sublimate consisted of eight-sided crystals. I examined these crystals further. I concluded that they were crystals of white arsenic. I first boiled them in a little water. I then took part of the watery solution and I added to the solution a drop of solution of ammonial nitrate of silver, and it produced a pale yellow precipitate. I then took another part of the watery solution and I added some ammonial sulphate of copper, and the result was a pale green precipitate. I then added some muriatic acid to the watery solution, and then passed some sulphurated hydrogen gas through the acid solution. I should say that I boiled the solution first. The result was a bright yellow precipitate. I tested these three precipitates. I added ammonia to all three, and they all dissolved. I added the ammonia only to a part of the last yellow precipitate. I kept part for another test. I boiled it with strong muriatic acid, and it did not dissolve. All these tests satisfied me that it was arsenic. I used about a sixth part of the powder in these experiments. I made further experiments with the rest of the powder. I made experiments with regard to the arsenic. I boiled a little of it with water and muriatic acid and then put in two pieces of clean copper foil, and I continued to boil it, and in a few seconds the copper foil became covered with a grey metallic deposit. I took out one of the pieces of copper foil, I dried it and heated it on a test tube, and a white sublimate formed on the side of the test tube. I examined this sublimate under the microscope and found it to consist of eight-sided crystals. I went through exactly the same tests I have mentioned, and with the same result. I also tried the test of reduction by charcoal. I have the test tube showing the result of that experiment. This is it (Witness produces tube.) This is the deposit. It is called the metallic ring. This metallic ring is one of the signs of the presence of arsenic. This ring may be reduced into white arsenic by heating. I did not make that experiment. (The test tube was put in and marked T.) I made no other experiments with regard to the powder on the 11th. I made no experiments that day to discover what the glittering particles I have mentioned were. They were not affected in any way by the other experiments I made. On the 19th I examined some of these particles under the microscope. That is the only examination I made of them on the 12th. I thought they might be powdered glass or quartz. I communicated the results of my experiments to Dr. Seward in a letter on that day. (Exhibit Q is shown to the witness.)

This is my letter. I made a further examination of this powder on the 12th. I opened the piece of blue blotting paper, and on looking at the powder I was struck with the brilliancy of some of the particles. From that examination I was led to the conclusion that these particles were diamonds. This examination was first of all a simple inspection. I then tried to dissolve them in all the acids; and with an alcali potash. I found that these articles were not soluble. (A letter is shown to witness.) As the result of the experiments I made, I wrote this letter to Dr. Seward. (This letter was read and put in and marked U) It was as follows :—

MY DEAR SEWARD,—In continuation of my letter of the 11th I wrote to tell you that a still closer examination of the gritty powder has led me to think that part of it at least is diamond dust. The lustre of some of the particles seems to me too great for anything else, and they are besides exceedingly hard and quite insoluble in any acid. This opinion is however based only on ocular inspection. I am not in possession of any means here to test the substance chemically should it be asserted that it is diamond dust, and besides the quantity sent is exceedingly minute.

How do you account for the metallic taste last described by Colonel Phayre? Can it be copper? Arsenic is tasteless or nearly so. I failed to find any compound of copper in the powder you sent in, but as all its salts are very soluble, and it is possible that if put in the pummelo juice it may have been thrown away when the tumbler was emptied. The early appearance of the symptoms may be due to the fact that he took the arsenic in solution or rather suspended in the pummelo juice on an empty stomach. He may also have taken a comparatively large proportion of what was in the tumbler, as arsenic, unless well mixed has a habit of floating on the top of a liquid. Natives have a firm belief in the deadly properties of diamond dust or powdered glass, but the fact is that neither of them possess any deleterious qualities.

I shall be happy to examine anything else you may require done. It is possible to obtain any of the pummelo juice or any part of the ground or other place upon which it was thrown, if so we might be able to detect copper if present.—Believe me, &c.,

W. GREY,
Chemical Analyser to Govt.

Grant College Laboratory, Bombay, Nov. 13, 1874.

Referring to the opinion expressed in the letter regarding diamond dust, Serjeant Ballantine said that the only way the letter could be read was to refresh the witness's memory.

The President: That can't be said to be a scientific opinion. Do you object to its being put in?

Serjeant Ballantine said he did not,

The witness continued: At the time I wrote this

letter I had received no communication from Baroda suggesting that there might be diamond dust. The opinion I formed as to diamond dust was entirely the result of my independent enquiries. After I wrote this I received another packet from Baroda. I received it on the 17th November. It was a registered packet, sealed with a seal bearing the crest of a bird. The seal was perfect when the packet reached me. I found a small packet and a letter in the envelope. (Exhibit 1 is shown to witness.) This is the letter contained in the envelope. I found in the packet some earthy matter. There were 17 grains. I examined it, and found that it contained arsenic, sand, and glittering particles. These glittering particles were similar to those I found in the other packet. I ascertained the presence of arsenic in this earthy matter by the same tests as I had applied before. This is the tube which shows the metallic ring of the second packet. (The tube is put in and marked V.) I formed the same opinion with regard to the glittering particles in this packet as I did of those in the former packet. I did not discover in either of these packets the presence of any poison besides arsenic. In the first packet I found altogether one grain of arsenic, and in the second a grain and a quarter. Under favourable circumstances for its action $2\frac{1}{2}$ grains is a full-dose for an adult.

Sergeant Ballantine : What do you mean by favourable circumstances?

Witness : An empty stomach.

Sergeant Ballantine : Oh ! favourable for the arsenic ; I did not understand you.

The President : He said "for its action."

The witness continued : The effects of arsenic would in the majority of cases begin to manifest themselves in from half an hour to an hour. The first symptoms of arsenic are dizziness, then nausea, which is followed by vomiting, a burning pain in the stomach, and purging. Chronic poisoning or the taking of repeated small doses of arsenic affects the eyes. It makes the eyes water and feel sore. If arsenic is applied to a wound it produces injurious, and it may produce fatal effects. I cannot say if the mixing of diamond dust with arsenic would have the effect of diffusing the arsenic.

The Advocate-General : If arsenic were first put into a bottle with water and then shaken, and then put into a tumbler containing any liquor, would it have the effect of diffusing the arsenic in a tumbler ? —Yes.

Dr. Seward has said that when he first put some water into the tumbler and shook it he saw a film rise to the top. Would that effect be produced by the presence of arsenic ? —Yes.

The witness continued : I afterwards received a third packet on the 30th December from Mr. Souter. The packet contained another small packet. The packet was an envelope. I examined the contents of the packet and found there were

seven grains of white powder. It was arsenic. This is the envelope, and the paper of the enclosed packet. (The envelopes and packet are put in and marked W.) Besides the powder there was a thread. The envelope I hold in my hand contains the whole of the packet except the arsenic. The whole of the 7 grains of white powder were arsenic. There was no admixture of any kind. I also, at Dr. Seward's request, examined some charcoal he made over to me. I received the letter on the 30th of January last. I tested the charcoal, and found that it was free from arsenic. According to the best authorities, diamond dust has no injurious effect on the human body.

The Advocate-General : Now Dr. Chevers in his Manual for Medical Jurisprudence in India says—

Sergeant Ballantine (interrupting) : Even if he were a medical opinion his book would not be evidence.

The Advocate-General : I am going to ask him if he agrees with Dr. Chevers that it is the belief of the natives that diamond dust is a poison.

The President : I don't think Dr. Grey as a scientific man is more competent to say what is the opinion of the natives of India than any other individual.

The Advocate-General : He would have more means of knowing what is the opinion on the question than persons unconnected with science.

The President : I think it ought not to be put in.

The Advocate-General (to the witness) : Do you know whether the opinion has been discussed among medical men as to whether diamond is or is not poison ? —It has been.

What has been the result of that discussion ? —That it is harmless.

This concluded the examination of this witness.

Sergeant Ballantine : Does your Lordship wish us to go on now ?

The President : What is the time ?

Sergeant Ballantine : It is now four o'clock. I would rather put it off on my own accord, my throat is so bad with a cold.

The President : Very well. We don't wish to press you on unduly at all.

The Court then rose.

After the Commission rose, Sergeant Ballantine went to His Highness the Gaekwar with Mr. Payne, and was talking with him, when Dr. Seward came up and said His Highness must go away with him.

The learned Sergeant remonstrated and insisted that he had a right to speak to his client. Then Dr. Seward said they had better go into the tent or into the carriage. He, however, went away when the learned Sergeant told him that he understood all that, and that he must not be interrupted.

The following exhibits were read and put in on

Saturday in addition to those printed in our issue of yesterday:-

Durbar Yad from the Gaekwar to the Resident, No. 2037 dated 14th November 1874.

At personal interview with you the day before yesterday, I learnt from you the particulars about the attempt made by some bad man to poison you, for which I am very sorry. But it was the favour of God his cruel design did not meet with success.

If it becomes necessary for you to obtain my assistance in proving the criminal's guilt the same will be given. This is written for your information.

STATEMENT OF COL. PHAYRE, Resident.

On Monday, November 9th, 1874, I went out for my morning exercise as usual at a little before 6 a.m., and returned at 5 minutes to seven as shown by the clock above my table. I went to the wash-hand stand table, on which a glass of pummalo sherbet is usually placed ; and after taking two or three sips of it sat down at my writing table and commenced writing in about 20 minutes or half an hour. I felt sick of stomach, and at once attributed to the sherbet which I then thought must have been made with a bad pummalo. I then got up and took the tumbler of sherbet in my hand and threw nearly all its contents through the window. Whilst putting down the tumbler, however, upon the table, and feeling at the same time my head rather confused and dizzy, I observed some dark sediment, at the bottom of the tumbler. This struck me as very extraordinary and for the first time the idea occurred to me that the sherbet in question had been poisoned. I at once wrote a letter to the Residency Surgeon, Dr. Seward, and asked him to come over to me. He arrived in about half an hour, when I showed him the tumbler and its contents and described the sensation which I was at that moment undergoing. He suggested that I should take an emetic, but I replied that I had not taken sufficient to seriously injure me, and that I did not wish to upset myself for the whole day, as I had plenty of work to do. I at the same time mentioned to him that I had for some days previously had doubts about the good quality of the pummalo used for making the sherbet, as I had thrown it all away, and on others after drinking a little I had experienced much the same sensations as I was then suffering from. Dr. Seward took the tumbler away with him, and said that he would analyse the contents. Dr. Seward returned about noon, saying that he had analysed the contents, and from the clearness of the indications, had no doubt whatever of the presence of arsenic. I had in the interview written to him asking him to give me his professional opinion in writing regarding the nature of the contents of the tumbler. My note to Dr. Seward had not reached him at this time, but a few minutes afterwards it arrived, and having read

it, he wrote the professional opinion asked for. Under these circumstances I at once commenced a strict enquiry, and the first point on which I directed attention was to procure a list of those persons who had had access to my private office room between about 6 a.m. and five minutes to 7 a.m., this morning.

R. PHAYRE, Colonel,
Resident.
November 9, 1874.

No. 1612.

YOUR HIGHNESS.—Having been consulted by His Excellency the Governor in Council regarding the present situation of affairs at Baroda, His Excellency has desired me to acknowledge the promptness with which your Highness has attended to the advice of the Government of India in the matter of removing certain officials from office ; and with reference to your Highness's yad No. 1435, dated the 14th instant, I am instructed to say that the Government, while refraining from pronouncing any opinion on the qualifications of Mr. Dadabhoy Nowrojee, desire to offer no objection whatever to that gentleman's appointment as Dewan, should your Highness, in the exercise of your independent discretion, think proper to appoint him.

It will be my duty to afford Mr. Dadabhoy every assistance he may need, and accord to him the usual military honours.

R. PHAYRE, Colonel, Resident.
August 27, 1874.

SEVENTH DAY.

BARODA, MARCH 3.

The proceedings yesterday opened with a very mild cross-examination of Dr. Gray by Serjeant Ballantine. The analyst stated that no copper was found in the sediment or the package of poison. But it was elicited that copper would occasion in less than half an hour salivation and nausea such as Colonel Phayre experienced after sipping the sherbet, and that of course it would give a coppery taste, which arsenic would not. After this witness had finished his evidence some of the servants of the Residency were called to prove that the sherbet was made as usual on the 9th November, that Rowjee might have had access to it, &c. Then Rowjee Havildar was summoned and Serjeant Ballantine asked that the Gaekwar should be sent for as His Highness wished to be present while that witness gave his evidence. Sir Richard Couch assented to this application, and Rowjee was put back until His Highness arrived. Rowjee's examination-in-chief had not been concluded when the proceedings were adjourned.

During the afternoon an unfortunate glare from two doorways attracted the attention of Mr. Seoble and Mr. Melville. It was no doubt very great, and was trying to the eyes of those who were in the line along which the light was reflected from outside. But the step taken to alleviate this inconvenience was more than questionable—all the offending doorways and windows were covered up with matted tatties. The

ments of course excluded the light, but they also effectually excluded the air. The consequence in a small building crowded with people on a hot day may be imagined. The heat became stifling and the atmosphere quite tainted. If that state of things continue there will be a great mortality from blood poisoning before the Commission concludes its labours. The offending glare should be excluded by the tatties hung some four or five feet from the doors and windows, so as to admit of a free circulation of the air.

DR. GRAY'S CROSS-EXAMINATION.

At the sitting of the Court, Dr. Gray was re-called and cross-examined by Serjeant Ballantine as follows :—

I do not gather, Dr. Gray, from your evidence whether you had actually eliminated the arsenic, or whether you only came to the conclusion without having actually extracted the arsenic. Have you extracted the arsenic itself bodily? Yes, from part of the powder.

We have seen the metallic ring; have you used any further process than that so as to make it more clear?

None; I examined it with the microscope, that was all.

It is possible, is it not, to go further? Yes, it is quite possible.

And to produce actual arsenic? Yes.

Now there are several salts of copper, are there not, that are poisonous? Yes.

Sulphate of copper? Sulphate of copper is.

If sulphate of copper were mixed with other liquid, would it to the person drinking it, produce a strong metallic taste? It would.

I believe so strong that it has been remarked that it is a poison rarely if ever taken by mistake? It is discoverable so easily by the taste.—Yes, it is tasted at once the moment it touches the tongue.

And would the taste continue for some time?—Yes, it would.

Would one effect of taking sulphate of copper be a contraction of the throat? What would be the effect?

It has an astringent effect.

Would it cause colicky pains? It would.

And an increase of saliva? No, not that I am aware of.

Not a slight salivation? No, not until it began to affect the stomach.

That would be in half-an-hour or so?—Yes; sulphate of copper would act in much less.

I suppose that depends, as with other poisons, on the state of the stomach at the time, more or less?—Yes, more or less.

When it commenced to act on the stomach it would produce an increase of saliva?—Yes, the moment nausea began, it would produce a flow of saliva.

I am not aware—I treat all you say with the greatest respect—I am not aware that arsenic in a single dose would cause to salivate? I believe that arsenic taken chronically does occasionally produce salivation? Yes, occasionally.

It is not a symptom you would look for necessarily? No.

You say $\frac{1}{4}$ grain is a fatal dose? Yes.

The interpreter: Will you pause a moment, please?

Serjeant Ballantine: I will do anything you order

me. I know I put my questions too quickly for you. (To the witness): Colonel Phayre has described certain symptoms, and apparently there were no further consequences though the stomach pump was not used, so if he took arsenic it must have been a very small quantity? Yes, a very small quantity.

In your experience, Dr. Gray, would such a quantity as he could have taken, considering all the circumstances, have been likely to produce an increase of saliva? Yes, there was sufficient to produce nausea, and nausea would produce saliva.

Then would you say there would be the same effect produced as with copper, in relation to the saliva?—Yes, salivation is always a premonitory symptom, always the first symptom.

I need hardly ask you, Dr. Gray, as an experienced analyst: the addition of water to something that has to be analysed afterwards is a thoroughly improper thing to do, without first of all testing the water. I allude, you know, to what Dr. Seward said he added water to the substance in the glass? I cannot say it was a very improper thing, but —

I do not mean to say it was a wicked thing to do, but you are apt to find in it substances other than those that are contemplated? Yes.

I think that I am right. It was ten or twelve days after your first analysis that a second batch of powder was sent to you, which was said to have been scraped up from the verandah? Six days after.

DR. GRAY'S RE-EXAMINATION.

Re-examined by the Advocate General: You say that you extracted arsenic bodily from part of the powder. That is not the test of reduction, is it, but another test? Another test. We call it the sublimation test.

The President: Mr. Melvill says that the answer has been translated that the arsenic could be extracted, but we understood Dr. Gray to say he had extracted it.

The Interpreter: Yes; he did extract it.

Mr. Melvill: From a portion of the powder?

The Advocate General (to witness): Did you find any trace of copper in the first or second packet which was sent to you? None.

We know from a letter written by Colonel Phayre that your attention was directed to the possibility of copper being present. Did you direct your attention to the possibility of copper being present? I did.

Now, speaking about Colonel Phayre, if he took the dose of arsenic which resulted in the symptoms described, it must have been in a small quantity? Which time do you mean?

At the time he was suffering from those symptoms Serjeant Ballantine has described nausea, &c.? Yes.

Is arsenic what is called an accumulative poison?

No.

It passes off with the natural secretions of the body?

Yes.

You were asked about the metallic taste. Is a metallic taste ever produced by taking arsenic?—There is a diversity of opinion on that subject.

What is the result of your own enquiries into the subject? That raises the question as to whether arsenic has a taste or not.

The President : What is the result of your own experience ? Well I have tasted it and tried it, but I cannot detect any taste.

The Advocate General :—You took a small quantity. Serjeant Ballantine ; So did Colonel Phayre.

Witness : I took enough. But I have seen persons suffering from arsenic who say they had a metallic taste.

Serjeant Ballantine : I do not like, my Lord, to make objections, but all this witness is asked is to the effect that somebody who had taken arsenic felt this metallic taste. One would require to go into the whole history of the case, and ascertain that he had taken nothing else.

The President : The witness can only state his opinion founded upon his experience of the opinions of those who have taken arsenic.

Witness : In the course of my experience many persons who were suffering from having taken arsenic have complained of a metallic taste.

The Advocate General : I ask permission to put a question not arising out of my learned friend's cross-examination ; but which I omitted to put in his examination. Did your analysis enable you to say that the arsenic found in the third packet was of the same description as the other two ? It was the same.

Serjeant Ballantine : I must ask a question upon that please. But arsenic is arsenic and you would always find it the same, would you not ? No, in physical character there are varieties.

Did you really extract enough to be able to say that the arsenic was identically the same ? I only judged by ocular inspection by means of the microscope.

Would you like to say, with that certainty which I am sure you would like to convey, that they were the same ? In physical characters they were the same.

The physical characters under the microscope ?—Under the microscope.

I do not think this a question I ought to ask your Lordship to put ; perhaps you will allow me to put it. By metallic taste, do you mean coppery taste ?—No.

The President : His Highness the Maharajah of Jeypoor wished to have this question put : whether arsenic is soluble in water or not ?—It is soluble in water.

Sir Dinkur Rao : Is there any other substance besides arsenic which if taken once in a small quantity proves fatal ?—There are several.

The Advocate General : I think now, my Lord, it will be better to have the witness-box brought back. A number of native witnesses have now to be examined. (The chair which had been used by the European witnesses was then removed, and the witness-box was brought back, when a witness immediately stepped into it.)

The President : Who is this man ?

The Advocate General : Abdullah.

ABDULLAH MAHOMED'S EXAMINATION.

Abdullah Mahomed called and examined by Mr. Interpreter said : I came into the service of Colonel Phayre when he came to Baroda as Resident. Colonel Phayre came here from Pallunpoor first, and I came afterwards. I have been many years in his service off and on. Formerly, when I was a little boy, Colonel Phayre and

his lady used sometimes to go to England, and was I his servant during those intervals. Off and on I have been in his service fifteen years, excluding the time that I was not with them during those intervals. I was in his service last November as his second servant. I have also been chobadar. In the month of Ramzan I was second servant. Colonel Phayre was in the habit of drinking a glass of sherbet in the morning. It was the duty of the second servant to prepare the sherbet. In case of his absence or sickness it was the duty of the butler. I remember the 9th November. I prepared the sherbet that morning in the dispense room where it used always to be prepared. After I had prepared it I took it to the dining room. I then took a saucer and plate and knife, a plantain, and two or three oranges. I at once proceeded from that dining room to the Sahib's office. I put it where it used always to be put, namely, on the wash-hand stand. I remember putting it on the wash-hand stand. It was two or three minutes before half-past six in the morning. Afterwards two hamals came into the room. One was Govind, the other was named Yellapa. One of them was sweeping the room, the other was cleaning the things. I then took out the clothes for my master and left the room. I did not go into the room again before Colonel Phayre came, returned. I made the sherbet that morning of pummelo. I put nothing else in. I cut up the pummelo and separated the seed. I pressed the juice into a soup plate. I pressed it with a spoon, a silver one, belonging to the sahib. It was a large table spoon. I strained the juice through a piece of muslin.

ABDULLAH MAHOMED'S CROSS-EXAMINATION.

Cross-examined by Serjeant Ballantine : There was a verandah to this room, was there not ? Yes. There is a verandah that leads from inside as well as outside.

Used that to be cleaned every day !—Sometimes. The inner verandah used to be cleaned every day. I do not know whether the outer one used to be cleaned or not.

I do not quite understand you. What do you mean by the inner verandah ? There are two ways of getting to the sahib's office : one from the outside, the other from the verandah.

Are there one or two verandahs ? It is one verandah but a portion of it is open.

Is that verandah cleaned every day ? Yes, it was cleaned every day from inside.

Mr. Melvill : No, Mr. Interpreter, he did not say that. I understood him to say the inner verandah was cleaned daily, but he was not certain that the outer verandah was cleaned.

Serjeant Ballantine : He said that originally, if the interpreter was correct.

Mr. Melvill : He said that now.

Serjeant Ballantine : Thank you. (To witness) : What do you mean by the outer verandah ? There is a passage a little shaded, and a little open.

Was not that cleaned ? It was not my business. I did not see it : it was the hamal's business.

Re-examined by the Advocate General : Did you notice any one cleaning the verandah on the morning of

the 9th November? Two men used to sleep there and they used to clean it.

That is not an answer to my question. Did you see any one cleaning it on this morning of the 9th?—No.

GOVIND BALOO'S EXAMINATION.

Govind Baloo was then called and examined by Mr. Inverarity: He said: I am a hamal employed at the Residency. I entered the service of the Residency when Colonel Walker went to England on two years' leave. That is about five or six years ago. It is part of my duty to clean the private office of the Residency. I remember the morning of Monday, the 9th November last. I went on duty. I was engaged in cleaning Colonel Phayre's private office room on that morning. It was not quite 7 o'clock when I went into the room that morning. I went into the room after the sahib went out on an airing. It was about half an hour after or perhaps a quarter of an hour so far as I remember. I remained in the room a quarter of an hour, or half an hour or thereabouts. While I was in the room Abdullah came into the room. Luxmon, sepoy, was outside with the inkstand. First of all Yellappa went into the room. He cleaned it and then came out Yellappa is another hamal. Abdullah was inside. He took out the sahib's clothes, Abdullah after having taken out the sahib's clothes, and cleaned his boots, went out. Rowjee Havildar also came into the room. That was after Abdullah went out. When Rowjee came in he said let the torn papers be removed from this basket into that basket. There were torn papers in a basket were they used to be kept. The basket this morning was close to the sahib's writing table. Rowjee said "let the torn waste paper be removed from this basket to that basket." There were two baskets, one outside and one inside. Rowjee took the paper from the inside basket and put it into the outside basket.

The President: What does he mean by outside?

The witness: I mean the ante-room. He brought the outside basket into the room, and emptied the paper from the inside basket into it. Rowjee was in the room that morning not long, about five or six minutes. I know the working table in the private office room. It is my duty to clean that table and supply fresh water for it. On that table on the 9th there was a gindee, and an earthen kooja. On the 9th November I supplied fresh water for the gindee and kooja. I got this water from an earthen pot outside. It is the bheestie's duty to fill that earthen pot. That pot is for the service of the sahib loque generally. I did not notice Abdullah bring in Colonel Phayre's aherbet that morning. It was seven o'clock when I went into the dining room to clean it. I did not see the sahib return.

Serjeant Ballantine did not cross-examine this witness.

The Advocate General: I then propose to call Yellappa, the other hamal.

The President: The members suggest that you did not ask exactly whereabouts outside the earthen pot was.

The witness was then called back, and the question was put by the Advocate General.

The witness: It was outside the dining-room and near it. There is a wall between where the pot was,

and the dining-room. In front is the visiting-room, and near it the dining-room. There is a wall and a door between the dining-room and the visiting-room. Going from the visiting-room out at the back of the house, you pass through the dining-room. This water pot was outside of the dining-room in the covered place at the back of the house.

The Advocate General: I think the arrangements at the Residency have been somewhat altered since those days. The dining room is changed.

The President to Serjeant Ballantine: You do not propose to examine the witness. I will make a note of that.

YELLAPPA'S EXAMINATION.

Yellappa was then called and examined by the Advocate General. He said: My name is Yellappa Nursoo. I am a hamal employed at the Residency. On the morning of the 9th November I was engaged with the last witness in cleaning the room.

Serjeant Ballantine did not cross-examine.

LUXIMON'S EXAMINATION.

Luximon Durias Sing examined by Mr. Inverarity, said: I arranged Colonel Phayre's writing materials in his private office on the morning of the 9th November last. After arranging the things I went and sat in the place allotted to the sepoys to sit the dwee. I do not know what occurred after I went there. I went to take a note to the Post-office which was given me by the sahib. I took the note at a quarter or half past seven o'clock. When I was going with the note I did not meet any one on the road. I did not see any one before starting with the nota. I did not see any one as I left the Residency. I saw some one when I returned from the Residency. This was on the road as I was returning. I saw Salim. That is the Salim who used to come to the Residency with the Maharajah. I saw him near a nulla near the Residency. He was riding a horse. He was going towards the Residency. On my return to the Residency after delivering the letter he was there. He was at the place near the Residency where there are a number of English trees. That is eight or nine paces from the Residency. He was standing. It took me more than a quarter of an hour to take the letter to the Post-office and come back Salim continued standing at the Residency.

Serjeant Ballantine: I do not wish to ask this witness anything.

JUMOO MEEYA'S EXAMINATION.

Jumoo Meeya, examined by the Advocate General, said: I am the Khotwal of the cantonment. I remember the 9th November last. On that day I received some information from a man called Natta Jugga. I communicated that information to Dr. Seward. I remember hearing on that day in Camp that an attempt had been made to poison Colonel Phayre. I heard this about 2 o'clock. Dr. Seward mentioned it to me. I did not mention it to others at the time. I afterwards told Natta Jugga. I mentioned it to him between 3 and 4 o'clock, or thereabouts.

The Advocate General: Did you tell Natta Jugga

that an attempt had been made to poison Colonel Phayre before or after Natta Jugga spoke to you ? I received the information from Dr. Seward and afterwards mentioned it to Natta.

Well, I want to know whether you mentioned it to Natta before or after Natta spoke to you ? After I received the information from Dr. Seward I spoke to Natta.

The President This is what I have taken down as the witness's meaning, "This was after I had told Dr. Seward what Natta Jugga had told me."

The President The interpreter should remind the witness of what he has said before.

This was done and the witness then said First of all Dr Seward told me there had been an attempt to poison Colonel Phayre, then I spoke to Natta with a view to enquiry.

The Advocate-General When you spoke to Natta with a view to enquiry, did you tell him what Dr. Seward had told you about an attempt to poison Colonel Phayre ? It was in regard to that.

I do not think, you (the interpreter) can have conveyed to him my question. (Repeats question)

Witness Yes, I did

JUMOO MEEYA'S CROSS EXAMINATION.

Cross examined by Sergeant Ballantine When you told Natta what Dr Seward told you did Natta tell you something ? Yes

Did you see Dr. Seward after that ? Yes, the next morning.

Did you repeat to him what Natta had told you ? I did

Did Dr Seward tell you to make any enquiries ? Yes.

What did he tell you ? Repeat what Dr Seward said to you ? He said "a man has given some poison to Colonel Phayre, but who has given it is not known, therefore do you make enquiries about it"

Was that all he said to you ? That was all.

You are quite sure about that ? Yes

Did not he mention any name ? No, he did not.

Why were you to make enquiries ? I am Kotwal to this locality.

NATTA JUGGA'S EXAMINATION

Natta Jugga examined by Mr Inverarity said I am a bazaar muccadum and attend to the cleanliness of the bazaar. I remember the 9th November I know Salim the Gaekwar's saowar, I saw him on the 9th November, about 8 o'clock in the morning I was getting a place cleaned at Camateepoora Salim was going towards the bazaar on a horse. He was going fast, the horse was running. He was coming from the city bridge and going towards the Sudder Bazaar, which is in the camp. I know Rowjee and Jugga, the servants of the Residency They live in the Sudder Bazaar. I saw Salim come back shortly afterwards. He came in five minutes. When he came back he went towards the city. He was still on horseback and was going fast, not very fast. When he returned from the bazaar, I spoke to him and he to me, I told the Kotwal Jumoo Meeya what I had seen that morning.

NATTA JUGGA'S CROSS-EXAMINATION.

Cross-examined by Sergeant Ballantine Was Salim going quickly or slowly when you saw him ? On his return he was going slower than when he went.

Had Sahm's name been mentioned to you at all in reference to this matter previously ? No

Rowjee was next called.

Sergeant Ballantine My Lord, we are anxious the Maharajah should be here during the examination of this witness He has been sent for

The President Certainly, we will wait until he arrives.

Sergeant Ballantine Your Lordship pleases. It was his own wish.

The Advocate-General Then there is another witness I could call in the meanwhile.

MAHOMED ALI BUXTON'S EXAMINATION.

Mahomed Ali Bux was then called and examined by Mr Inverarity He said I am a peon employed at the Residency. I remember Monday, the 9th November I know Salim the Gaekwar's saowar. I saw him on the morning of the 9th November I saw him at the Residency I first saw him at the Residency about half-past six or seven o'clock It was before Colonel Phayre returned from his morning walk. At first I did not speak to Salim I was sitting on a box, and he was standing holding the bridle The box on which I was sitting was near the dewree It is on this side of the house As you go to the steps it is on the left hand side I remember seeing Mr Boevey return that morning. I did not see Sahm at that time I took a letter to Dr Seward from the Residency that morning I had some conversation with Salim as I was taking the letter. He took out a rupee and gave it to me and said, "As you are going with a letter towards the bazaar will you get me some biscuits ?" First I delivered the letter to the sahib and then I went to the bazaar, but I could not find any biscuits. When I came back to the Residency I did not notice—I did not see—if Salim was there Salim had never asked me for the rupee back or for the biscuits Afterwards I was prevented from speaking to him, I mean on the second or the third day The sahib gave me orders not to speak to anybody On my return from the bazaar to the Residency I remember meeting Dr Seward I had a conversation with him, I salaamed him. The sahib asked me what I had brought

Mr Inverarity I do not want to know what he said Did he speak to you ? Yes and I spoke to him,

MAHOMED ALI BUXTON'S CROSS-EXAMINATION.

Cross examined by Mr Branson You were examined by Colonel Phayre, I believe ?

The Interpreter Do you mean examined with a view to taking his depositions ?

Mr Branson Yes.

Witness (in answer to the question) No, it was before Mr Boevey.

Well, in Colonel Phayre's presence ? No, Phayre sahib was sitting separate.

Did you sign any statement in Colonel Phayre's presence ? No, he was not present.

Did you tell Mr. Boevey this : that on your return

from the bazaar you told Salim that the biscuits were not ready ? Yes I said so to him from a distance

Two minutes ago you told my learned friend that you did not see him at all when you came back When did you see Salim ? As I was returning from the doctor's bungalow and passing by the school

Oh ! the school, just here. What time was that ? It was half-past seven or a quarter to eight or thereabouts.

You did not see Salim again after that ? Yes , I saw him when I came to the bungalow

MAHOMED ALI BUX'S RE-EXAMINATION.

Re-examined by the Advocate General You say you saw Salim by the school near the Doctor's bungalow. What was he doing ? He was going towards the city.

On horseback or on foot ? On horseback.

How long after that did you see him at the bungalow ? At about nine.

The President At the bungalow ?

The Interpreter Yes, my Lord

Mr Inverarity At the Residency ?

The Interpreter Yes, at the Residency.

The Advocate-General (to witness) Did you then have any talk with him ? Not at that time

sir Dinkur Rao Was Salim in the habit of going every day to the Residency or did he come that day only ? He used to come on Mondays and Thursdays

What day was the 9th November ? It was the second day after the Dewal Tee. It was Monday.

His Highness Mulharso having now entered the Court, the witness Rowjee was called

ROWJEE'S EXAMINATION.

Rowjee Rahimon, examined by the Advocate General said I was a havildar of peons employed at the Baroda Residency. I was so employed about a year or a year and a quarter Colonel Phayre appointed me. I lived in Sudder Bazar in the camp None other of the Residency servants lived either with or near me. I know Salim, a sowar in the employ of His Highness the Maharajah. I first made his acquaintance since he first began to come to our bungalow. By our bungalow I mean the Residency. He made a proposition to me, about two months before the sitting of the Commission, about the complaints of the cultivators preferred by Colonel Phayre That was about a year and a quarter ago The proposition was this Salim said "the Maharajah has sent for you. He wants to have some conversation with you He wants you" I said to him " I cannot come just now." He was after me very much. He often asked me this. Eventually I agreed to go. I said " I agree to go " And I went on a Sunday I do not remember the month. It was two months before the Commission commenced I left the Camp to go about 7 o'clock in the evening I went first to the house of Yeshwantrao. He is the Maharajah's jassood or messenger He was in the habit also of coming to the Residency. His house is near the new bazaar in the city. I then found Salim sowar sitting there. I was then taken by Salim sowar and Yeshwantrao to the Maharajah's havellee, where he lived. It is in the city. I went into the havellee from a way in the rear, through the Nuzzur Baug. There is a flight of stairs leading to it. The door was in

the side facing towards Chimmaum Baug. It is called Nuzzur Baug I was then taken upstairs On being taken up-stairs I was accompanied by Salim sowar and Yeshwantrao. Both these took me upstairs. On getting upstairs I sat down in a room. Salim sowar sat down by me, and Yeshwantrao went in to report to the Maharajah Yeshwantrao brought the Maharajah. I knew him by sight, and I recognised him very well when he came in with Yeshwantrao When the Maharajah came into the room I made salaams and again sat down. The Maharajah said to me "if you can get any news or information from the bungalow let me know it." "I said very well." The Maharajah said "I will give you many rewards and presents" I will gratify you and please you Do you continue to give me news and information relating to that side or that direction. I said "very well" The Maharajah then asked "Are you intimate with the jemedar, on friendly terms with the jemedar, the Residency jemedar I said "yes" The Maharajah said " You should bring him with you to me, I said "very well" The Maharajah then enquired about matters relating to here and there.

The Advocate General Cannot you give us a *very* translation than that, Mr. Interpreter ? I suppose it must be some idiomatic expression ?

The Interpreter I do not think I could better express it. It means miscellaneous subjects

The Advocate General Then we will take it that there was no further conversation except on unimportant subjects.

Witness continued I then took my leave Salim sowar and Yeshwantrao left with me. They went to their respective houses and I went to the Camp I afterwards went to Nursoo Jemedar the following day when I went to my duty and told him He said "at present I have no time to go" I went on three or four occasions before the sitting of the Commission.

The President Does he mean before the Commission ?

The Interpreter I asked him the question in that form.

The President Ask him again. Perhaps he did not understand that

Question and answer both repeated.

Witness continued When I went from the camp afterwards, I met Salim sowar and Yeshwantrao and accompanied them to the Maharajah. I used to meet them at Yeshwantrao's house. I used to go from my house to Yeshwantrao's house and from Yeshwantrao's house to the Maharajah. On these visits I used to inform the Maharajah about the persons who used to come to the bungalow or Residency.

The Court then adjourned for tiffin.

When the Court resumed its sitting after tiffin, the examination of Rowjee Rahimon was continued as follows —

While the Commission was sitting I went to visit the Maharajah. I went three times. I used to go along to Yeshwantrao's and from his house I used to go with him and Salim to the Maharajah. On all these three occasions I saw the Maharajah. It was at the same havellee as I have described. I spoke to the Maha-

rajah. I used to give him information about what occurred here; I mean the Residency. I got my information because people used to complain at the Residency and to come before the Commission. I heard what they said and repeated it to the Maharajah. About this time I had spoken to the Maharajah about my intended marriage and he paid me Rs. 500 for the expenses of the marriage. This was during the sitting of the Commission. When I spoke to him about the marriage he called Yeshwantrao and said you must remind me of it. Yeshwantrao was then standing near the Maharajah. I next heard about the amount when Yeshwantrao came to the Residency and spoke to me. This was when he accompanied the Maharajah. It was on a Moaday Yeshwantrao spoke to me. He said "I have brought and kept Rs. 500 for you. You should come and get the amount." I went that same evening, I think to get the money.

The Advocate General : I think, my Lord, it would be more convenient not only to the Commission, but to every one else if the doors could be shut. There is a tremendous glare comes in at the two doors.

Mr. Melvill : It would be of no use closing the windows.

The Advocate General : No, that would be worse, but if a chick were put over the doors it would be very much better.

The President : Mr. Jardine will give necessary instructions that that be done.

Witness continued : A punkawalla named Jugga employed at the bungalow, the Residency, went with me. When I got to Yeshwantrao's house I met a sepoy first down below, I then met Yeshwantrao and I received money by his karkoon. The amount was Rs. 500. This karkoon and Jugga were present, but no one else that I saw. Yeshwantrao was upstairs in his house. The name of Yeshwantrao's karkoon was Dulpurt. I spent the money on my marriage, Rs. 400 of it, and I deposited Rs. 100 with instructions that I would draw it—the balance—from him as I wanted it from time to time. I bought some clothes with the Rs. 400, made some ornaments and other expenses. The ornaments were made through Dadjeey Kurria's instrumentality. My marriage took place during the sitting of the Commission. I do not remember in what month. After the Commission had left Baroda I saw Salim again. It would be two or three days after. He said I have brought over the jemadar and have spoken to him.

Mr. Melvill : He said *mila*.

The Interpreter : Yes; that is the way I translate it.

Mr. Melvill : *Mila* with whom; that is to say "I have spoken." The Interpreter has translated "brought over" and "spoken to" by the same word.

The Advocate General : No, he used both *mila* and *aat keya*.

Mr. Melvill : Oh ! I beg your pardon, I did not hear that.

Witness continued : He said "I have spoken to him, he has promised to come. Do you come with him to the Maharajah." I said, "Very well, I will ask him." I spoke to the jemadar about this, that very day in the evening. The jemadar said to me "I will go with you on Sunday." I don't remember what month this was in. It was about eight, nine, or ten days after the sittings of the Commission were

over, as far as I remember. It has been arranged that I should previously go to Yeshwantrao's house, and I went on the Sunday and met the jemadar there. As far as I can remember Jugga was with me or Kurbhai. Kurbhai is a punka-puller employed there at the Residency: he is now unemployed. I don't know his father's name. He is not Kurbhai the cart-driver. He is another man. As far as I remember it was either he or Jugga accompanied me to Yeshwantrao's house. We found there Nursoo jeme, dar, Salim sowar, and Yeshwantrao. We then went to the Maharajah's havelie. I went through a lane which is in the direction of Nuzur Baug, and Yeshwantrao went into the havelie by the entrance in the public street, and I went in by the lane near the Nuzur Baug. Salim sowar went with me, and Kurbhai or Jugga went with me. We went upstairs. The jemadar was with us. Either Kurbhai or Jugga whichever it was did not go upstairs; they remained downstairs. We all went up the flight of stairs. There were I, Kurbhai, Salim, and Jugga. We were made to wait there. Salim then went up another flight of steps. He afterwards came down and took up me and Nursoo the jemadar. The others remained sitting down below. I and the jemadar went upstairs with Salim. When we got upstairs we were conducted to the bench on which the Maharajah was in the habit of sitting and where there was a bath-room. When we got into this place where the Maharajah was sitting we found I, Yeshwantrao, Salim sowar the jemadar and the Maharajah. I and the jemadar had some conversation with the Maharajah. I do not remember it, but as far as I remember the Maharajah said to the jemadar, "You should report to me the news and convey to me the information from the Residency. As you are living in Baroda you should bring me news every day." The jemadar replied "very well." The Maharajah said "you should tell me in regard to what the Sirdars say who are in the habit of coming to the Residency. As you are a servant of long standing you should know the Sirdars." The jemadar replied, "I will give the news, and Rowjee will also give the news and the news will be communicated through Salim." The Maharajah said, "Very well, you should send the news, and if it is very important you should commit it to writing. You should write and bring it from the bungalow. You should give it to the jemadar when he goes from the camp to give it to Salim." The jemadar lived in the city. The jemadar also told the Maharajah at that interview, "My brother's pension has been stopped, do you be pleased to make some arrangement about that." The Maharajah answered "I cannot make an arrangement about that. You must send a petition to the sahib, and if the sahib speaks to me I will make an arrangement about it." The jemadar's brother was in the service of the Maharajah. There were two brothers. One was a Commandant and the other a jemadar in the Russals. Nothing else took place. That was all and then we left. Between this visit and the Maharajah's going to Nowsaree I visited the Maharajah four or five times about the time of his going there. I and the jemadar both visited him. On these occasions we saw the Maharajah and conversed with him. We conveyed information to the Maharajah as to what was going on at the Residency. I went to Nowsaree with

Colonel Phayre' Nursoo the jemedar also went. We all went Both I and the jemedar were in attendance upon Colonel Phayre all the time he was at Nowsaree The Maharajah also came to Nowsaree I saw Salim there with the Maharajah, but I don't think I saw Yeshwantrao. Yeshwantrao's son lived in our bungalow By our bungalow I mean the bungalow occupied by the Resident He lived in a rowtie in the compound All the servants lived in rooms in the bungalow, but there was a tent and rowtie for us—the sepoys, and Yeshwantrao's son lived in the rowtie Salim also lived in the rowtie While at Nowsaree I went to the Maharajah once I was introduced to his presence by Salim On that occasion I had some conversation with him The Maharajah enquired about Bhow Poonekur and others who used to come to the Residency bungalow, and what conversation they had I do not know personally a man named Damodhur Pribud or Damodhur Punt, but I know him by sight and I know him by name He was at Nowsaree with the Maharajah After we returned from Nowsaree I did not for the most part continue my visit to the havalee of the Maharajah Stop a minute, I have made an omission After my return I went thrice to the havalee with Pedro, the butler I also went with the jemedar After my return from Nowsaree I think I went altogether twenty or twenty five times

The Interpreter I am doubtful whether he refers to the period

The President So am I Ask him again (Question repeated)

Witness After we came from Nowsaree I went thrice in company with Pedro and four times in company with the jemedar I never went with Pedro and the jemedar, but I have been with Pedro and Salim After I had returned from Nowsaree Pedro asked me 'Would you go with me?' I said 'Where to?' He answered 'Salim sowar has told me, we should go to the Maharajah' I said 'very well, I will go with you when you ask me to go' On one occasion I left the camp and waited at the bridge whilst Salim sowar was bringing a gharav from the city Salim brought a gharry there and went to the bungalow to call Pedro The bridge I mean is the bridge near the school on the road to the city just at the corner of the maidan Pedro came back with Salim and we all went together to the city This was at night, past 10 o'clock—about past 10 o'clock Having got to the city we got to the Maharajah's havalee I met Yeshwantrao jassood at the havalee I and Pedro saw the Maharajah On this first occasion when Pedro and I saw the Maharajah he asked when

When your sahib sits at the dinner table does he make any allusion to me Then Pedro said "the sahib says what is good for you He also said "It will be good for you if you live on amicable terms with the sahib The Maharajah said 'I behave well, but the sahib gets angry' Pedro said "The junior madam sahib is very kind to you

The Advocate General 'Well disposed would be a better interpretation'

The Interpreter It is more mild It means kind or obliging towards you

Witness continued Pedro said, "If you behave

well the sahib will also be very kind to you" The chota madam sahib was Mrs Boevey, who lived in the Residency bungalow The Maharajah said "you should send news and information through Salim, because Salim was in the habit of going to the butler's house I remember the butler going to Goa on a month's leave This visit I have spoken of was before the butler went to Goa Before he went to Goa he and I went to the Maharajah's three times After the butler returned from Goa, I went once with him to see the Maharajah [Our readers may remember that Pedro went to Goa on October 3 and returned to Baroda on November 3] I went four times altogether When I went to see the Maharajah with the butler after the butler's return from Goa the butler had some conversation with the Maharajah The Maharajah asked "When did you come back from Goa?" The butler said something like "three or four days ago" The Maharajah said "If I give you something to do, will you do it?" Pedro said "If it is possible for me to do it I will" Then the Maharajah called Yeshwantrao Yeshwantrao was present Yeshwantrao had a packet in his hands which he gave to the Maharajah The Maharajah put it into the hands of Pedro Pedro then said "What does this contain? What is it?" The Maharajah said "It is poison" Pedro said "What shall I do with it?" The Maharajah replied "Do you give it in some food to the sahib" Pedro said "If the sahib dies all of a sudden I will be taken up and will be ruined The Maharajah said "No thing will happen all of a sudden The sahib will die in two or three months" He also said "Nothing will happen suddenly to the sahib do not be alarmed After this conversation took place I left and came to the camp I left with Pedro Pedro went to the bungalow I believe Pedro kept the packet in his possession He told me that Salim sowar paid him some money I do not know how much He told me this at the time he was going to Goa

The Advocate General (to the Commission) I do not know if the Commission will go any further to day It is now 20 minutes past four and I have finished this branch of the witness's evidence

The President We had better adjourn now, then
The Court then rose

EIGHTH DAY

BARODA, MARCH 4,

YESTERDAY forenoon, at eleven o'clock, the Commission resumed its sitting All the members were present Sir Lewis Pelly was absent His Highness Mulharao was present until tiffin time, and heard Rowjee giving his evidence in chief

As on the previous days, the Advocate General and Mr Inverarity, instructed by Messrs Hearn, Cleveland and Lee Warner, appeared for His Excellency the Viceroys in Council, Serjeant Ballantyne, Mr Branson Mr Purcell, and Mr Shantaram Narayan, instructed by Messrs Jefferson and Payne, appeared for the Gaekwar Mr Vasudeva Jagonsab, pleader of the High Court also watched the proceedings on behalf of His Highness.

The day was given up wholly to the havildar Rowjee. He recounted the particulars of an interview with the Maharajah shortly after that at which Pedro was alleged to have received a package of poison from His Highness. The date of this important interview at which the Jemedar Nursoo was present was fixed as the Friday before the attempt at poisoning was made and according to Rowjee, the Gaekwar asked the pair if they would put poison in Colonel Phayre's food, and they answered that they would. At a previous interview His Highness had offered them a lakh each for the deed, and promised them that he would give them employment and look after their families. The bargain was struck, and next day a package of poison was sent to Rowjee. The Gaekwar also gave a vial full of "white liquid like water" to put in Colonel Phayre's bath or wash hand basin, but as a little of the fluid escaped and raised a boil on Rowjee's skin, he thought it would injure the Sahib if applied, and he thoughtfully threw it away. He kept the bottle, however, to mix the poison in before pouring it into the sherbet. He did not explain whether he thought the poison would injure the Sahib. He told Nursoo that he had used the contents of the bottle as directed for the discomfiture of the Resident, he was pressed—"jeldi, jelidi,—and he had to say he did something. The Maharajah used very coarse abuse to him, he said, because the Colonel was not poisoned quick enough. Yet His Highness was never tired of telling all whom it concerned that they need fear nothing for the poison would not act in less than three months. On the 9th November Rowjee put the poison in the sherbet. He did not know what Pedro did with the package given to him; how should he know what other people did? He left what was left of the poison by mistake in his belt; afterwards the Khan Sahib found it there in one of two pockets which were pointed out to the Court. That particular pocket appeared to be bottomless—it was indeed apparently a false pocket, consisting merely of two overlapping pieces of the belt. The counsel for the defence made merry over this discovery, but no question was put regarding it by either side. The cross examination of the witness began in a way that promised rare sport for the audience. The witness confessed that he had no grievance against Colonel Phayre, though he undertook to murder him when asked. He was a poor man, and was offered a lakh of rupees. A lakh was too much for a poor man, and what could he do? Besides the intention to murder was on the Maharajah's part—he had no wish to murder the Resident, but—the lakh and the Maharajah were too much for him. Rowjee proved himself to be a very glib ready witness, however, and the learned Sergeant did not make that impression upon him which many people appeared to expect. His evidence has been beyond question the most sensational that has yet been given.

ROWJEE RAHIMON'S EXAMINATION (Contd.)

On the assembling of the Court the witness Rowjee Rahim was recalled and examined by the Advocate General as follows:

The Advocate General You were telling me yesterday about the visits you paid to the Maharajah, in company with Pedro, after your return from Now saree. After your return from Now saree, did you go with

anyone else, besides Pedro, to see the Maharajah?—I went with the jemedar, Nursoo. I first went with the jemedar two or three days after my return from Now saree, Kharbhai the punkawalla accompanied me as well as the jemedar.

Sergeant Ballantyne Will your Lordship desire the witness to speak up so that His Highness may hear him?

The President (to the interpreter) Ask him to speak up more.

The witness Fifteen days after my return from Now saree Rs 300 were paid to me.

Sir Richard Meade The word he used was "se laya".

The interpreter He now says "I received".

Witness continued These Rs 300 were paid to me by Nursoo, jemedar. After receiving this money I again went to see the Maharajah. That was four or five months after, by guess. On that occasion Nursoo jemedar went with me. I left the Camp bazaar at 7 o'clock. I first went to Yeshwantrao's house. At Yeshwantrao's house I met Salim sower, and Nursoo jemedar was also seated there. Yeshwantrao was also there. From Yeshwantrao's house I went to the Maharajah's haveli. I entered the haveli by the entrance situated on the Nuzur Baug side. I saw the Maharajah. He was seated in his bath room, upstairs. When I went to the Maharajah I and Nursoo sat down and Yeshwantrao and Salim were standing near the Maharajah. The Maharajah said to us, "The sahib practises great zooloom (oppression) on me. I will tell you something, will you listen to me?" I and the jemedars said "Yes, we will listen." The Maharajah then enquired, "What is the sahib in the habit of eating?" I said "He does not eat anything in my presence but he drinks sherbet."

The Advocate General He used the word "russ or juice".

The Interpreter He said sherbet also.

Witness continued The Maharajah then said, "If I give you something will you throw or put it in?" We said "What would be the effect of it?" Nursoo said this. The Maharajah said to us, "I will send you a packet by the hands of Salim sower."

Mr Melvill He did not state the Maharajah's name he said 'bola'.

The interpreter repeated the question.

The witness The Maharajah said this. I asked the Maharajah, "What will be the effect of it?"

The interpreter The word packet he used means also mean powder, "poodee" is the word.

Witness I asked "What thing is it?" The Maharajah said "It is poison. I then said to the Maharajah "If I put it in and anything happens to the sahib all of a sudden, what then?"

Sir Richard Meade (to interpreter) Does the word he used mean all of a sudden? The Interpreter Yes, aka ahee is the word he used, which I translate "all of a sudden".

Witness continued The Maharajah said "It will not produce any immediate effect, but it will produce an effect in the course of two or three months." Then the Maharajah said to us, "I will give you a present of a lakh each if you will do this thing, and I will employ you or give you employment."

Mr Melvill Give you service' is a better translation.

tion. The word was *assama*.

The interpreter : I render it "give you appointment."

The President : "Give you service," I think, the best translation.

Witness continued : The Maharajah said, "And I will protect your children and families, do not entertain any apprehension." I asked the Maharajah "In what manner shall I put that in?" He said "Take a small bottle or vial, put some water in it, put this powder in, and shake it well, and then put it in." The Maharajah then said—

Mr. Melvill : No, Mr. Interpreter, the witness said, "I asked the Maharajah."

Witness on the question being repeated : I asked the Maharajah "If I put in the powder what will be the effect?" The Maharajah replied, "It will float on the top, unless you shake it."

Mr. Melvill (to interpreter) : No, he did not say anything about shaking it.

The interpreter : I think he did.

Question again asked. Witness said : The Maharajah said "If you just put it in the juice without shaking it, it will come to the top, therefore you should shake it in the bottle before putting it in." Salim sower and Yeshwantrao both said : "It will be good for you if you do this job. Do not entertain any apprehension." The Maharajah said "Make three powders of this and finish them in three days." Nothing was shown to me at that time. The Maharajah said, "I will send it to the jemadar's house by the hands of Salim or Yeshwantrao." I said "Very well." After the Maharajah said so we left. I cannot fix the date of this.

The Advocate General (to interpreter) : No, not that way. You ought not to have used the word day. Ask what feast or festival there was about then, or was there anything to enable him to fix the date.

Question put and witness continued : I do not remember what day or what month.

Mr. Melvill : That is no answer to the question. Ask him what time of the year it was.

Question put and witness said : I cannot say even what season of the year. I cannot remember the 9th of November. I remember the day Colonel Phayre said an attempt had been made to poison him. It was about fifteen or twenty days before that, that I had this interview with the Maharajah. After this interview the jemadar brought a packet and gave it to me. This was at seven o'clock in the evening. The jemadar gave me the packet on the following day as far as I remember. I opened the packet, and found that it contained two powders, one white and the other rose-coloured. There was about this much (shows with his fingers). I don't know how much.

Mr. Melvill : A pinch.

Sergeant Ballantine : Let us see ; I should like very much to have this.

The witness : I do not think there was quite a teaspoonful.

Sergeant Ballantine : He could have some dust given him,

The Advocate General : How much was there in weight?

The witness : I did not form any estimate ; I did not weigh it.

The President : Is there any powder by which he could show how much.

(Some black sand was then shown to the witness, and he showed how much there was of each kind of powder.)

Sergeant Ballantine : I should like those packets kept.

The President : Mr. Jardine will keep them.

The Witness : When Nursoo gave me these powders he said something to me. After getting the powders I divided them into three portions, taking more of the rosy powder and less of the white powder. I used only a little of the white powder ; some of it was left. A good deal of the white powder remained ; I used a pinch of it. I do not remember how much remained. I used the whole of the rosy powder. When I had made up these packets I kept them in my belt. I kept the remainder of the white powder there also. I kept it in the lower part of the belt. I put it in the same pocket of my belt as the other powders, but in a different division. I threw the three packets into the sahib's sherbet, at different times. I do not remember on what days, but it was on alternate days. There was an interval of one day between each time. I put the powders into a bottle.

Mr. Melvill (to interpreter) : He did not say powders did he? Ask him did he put in all three powders.

Interpreter : In this word the plural and singular in English are the same in Hindustani.

Question repeated, and witness continued . I put one powder into a bottle leaving the other two. I put some water in it, shook it, and threw the contents into the glass.

Mr. Melvill : Into the sherbet?

The interpreter : He did not use the word "sherbet."

The Advocate General : Ask him what glass?

Question put, and witness continued : The glass which contained the sahib's sherbet, and when I say sahib I mean Colonel Phayre, and when I speak of the glass of sherbet, I mean the glass of sherbet that used to be placed for him in his office every morning. I adopted the same practice in regard to each of these three powders. The bottle I used had been given to me by the Maharajah, about the time when the sahib had a boil on his head. The bottle contained some white liquid like water. I was at the havalee when he gave me the bottle. Nursoo jemadar was with on the occasion. When the Maharajah gave me this bottle I asked him, "What does this bottle contain?" He said "It contains something which you should throw into the sahib's bathing tub or gindee." I brought the bottle away with me. I tucked it up in my drawers and it produced a wound to my body.

Mr. Melvill : He said "The string to my drawers."

The interpreter : He said he tucked it up in his drawers which were fastened with a string.

The witness : It produced a boil.

The interpreter : I think he means a blister.

The Advocate General : Ask him to describe it.

The witness : Like a boil, as when a man is burnt.

Mr. Melvill : He distinctly said a boil.

The interpreter : He said "It produces a sensation as when a man gets bugnt."

Mr. Melvill : He also said there was a swelling.

The interpreter : Yes.

The witness : I tucked in the bottle here (shows

where). As it produced a boil on me I thought it would produce some great injury to the sahib, and so I threw it away. I threw away the medicine which the bottle contained. When I got the bottle the mouth of it was stopped with cotton, and that was covered with bees-wax. I got this bottle before I got the powder. About a month or a month and a quarter before. I brought the bottle with me to the Residency. Nursoo jemedar asked me "Did you put it in?" I said "I had." I then said "Look here I have been burnt here," pointing to my belly. I kept the bottle in the Residency underneath a box belonging to the sahib, which was kept near a form on which we used to sit near the sahib's office. I mean where the jemedars sat. The sepoys sit on a form near the dweeza. I put it near the form on which I used to sit. Coming back to the time when I put the three powders—the rose-coloured and the other—into the sahib's sherbet. I again saw the Maharajah eight days after. That was, perhaps—

The Advocate General I do not want any "perhaps"

Mr. Branson Let him give his answer.

The President Yes, let his answer be given

Witness continued After that the Maharajah came, or used to come, and see the sahib, and perhaps he thought in his own mind that nothing had been done

The President I think you had better ask him whether he went of his own accord, or whether he was sent for. That, I think, is what you want

Question put in this form and witness continued He sent for us I and Nursoo jemedar both went to the Maharajah. It was at night. To the best of my recollection no other person went with me on that occasion. I went first to Yeshwantrao's house. I there found the jemedar and Salim sowar was sitting. The jemedar was there when I got there. By the jemedar I mean Nursoo. From Yeshwantrao's house I went to the Maharajah's haveli with Yeshwantrao, the jemedar and Salim sowar. I saw the Maharajah in the haveli in his bath-room, the same place where I had seen him before. On this occasion the Maharajah gave me coarse abuse and said "You have not done anything."

The President Serjeant Ballantine, do you wish that interpreted?

The Advocate General My learned friend says not The interpreter It is the very coarsest expression my Lord, that can be used.

'Witness continued I said "Maharajah, I did it, but I cannot account for its not happening." The Maharajah said "I will give you another thing which you should put in." I said "Very well." As I was about to go Salim stretched out his hand to the jemedar. I do not know if he gave the jemedar anything.

Mr. Melvill Oh! no, he did not say that. He said "He put something into the jemedar's hand. I did not see what it was."

The question was repeated

The interpreter He says "He stretched out his hand and gave something or not to the jemedar which I do not know."

Mr. Melvill "He put something into the jemedar's hand. I do not know what it was."

When Salim stretched out his hand the jemedar did not say anything. No one said anything. I and the jemedar went away. The next day when the

jemedar came from his house he gave me a packet. I opened and examined the packet. There was some black-coloured substance in it

The Advocate General Was it black like the interpreter's coat?—That is too black, it was not quite so dark. It was like this hat (points to a hat on the table).

The Advocate General That is rather grey-coloured than black

The witness I do not quite recollect it. I kept this powder by I kept it by one day I went on the Friday and got it on the Saturday. I did not go to my work on Sunday. I went on Monday. I am speaking of Monday the day on which this report was heard. I mean the report about the poisoning. On Monday I put the poison in the sahib's sherbet. That was the packet that was sent by the Maharajah through the jemedar and which the jemedar gave to me on the second occasion, the subsequent occasion

Mr. Melvill No he said the last occasion

Witness continued I put the poison in a bottle, hook it, and put it in the sherbet. The bottle I used was the one which had been given to me by the Maharajah. I put nothing else in the bottle. I put water in and shook it. No one was present in the room when I put the poison in the sahib's glass. It was about half past six in the morning when I put it in the sahib's glass, when I went to my duty. It was about twenty minutes or thereabouts before Colonel Phayre returned. I did not note the time I have no watch. I saw Colonel Phayre return. I remember his writing a note. He gave it into the hands of the jemedar, who gave it to me. I gave it to a puttawalla. Whom it was I do not know. I told him to take the note to the doctor sahib. Salim sowar was about at the time I had seen him about seven o'clock or near then. He came about that time. He asked me, "Did you do that job or not?" I said "Yes, I did." I said "A note has been this day written and sent to doctor sahib, and I think you will be disgraced."

Mr. Melvill Be in trouble, I think?

The interpreter I cannot take upon me the responsibility of translating it "trouble." You will find my rendering in the lexicon. The word is *fazhat*

The President Sir Richard Meade says he thinks the word means more ruined than disgraced.

Sir Richard Meade I think ruined or injured.

The interpreter I will look into it before I assent to that interpretation

The Advocate General You have a dictionary there.

The President You may refer to it now.

The interpreter, reading from Forbes's dictionary, said The word disgraced is rendered—by *ruswa*, *budnam*, *fazhat-rasida*, *be-abru*, *behurmut*, *be izzut*, *rusiyah*, *kalamunih*, *baddu*, *taghir*, *ma'zul*, *mankuf*. You see disgraced is rendered by the word witness used.

The interpreter Kindly hand the dictionary up to Mr. Melvill. (Dictionary handed up)

Witness continued Salim did not say anything to me. Immediately on saying this to Salim I left him. I mentioned this about the letter at the same time I told him I had administered the poison. I remember the doctor coming. I and the jemedar were standing there when the doctor came. I remained on duty all that morning. I was suspended on that day,

and desired to take off my belt and leave it there and go home I took off my belt and put it in the office My belt has never been returned to me. I was examined by Colonel Phayre on that day, little by little Mr. Boevey was present I was placed in arrest the following morning at seven o'clock I was released the next day at five o'clock in the evening. I was not allowed to return to my duty I know of no money having been paid to the jemadar besides the Rs 500 and 300 I have mentioned These are the ornaments I caused to be made (produced in Court) I paid about 500 or 550 rupees for them I have sent communications in writing to the Maharajah I got Jugga to write for me I know Jugga's handwriting I can read Guzerati a little I can write but not well (A paper is shown to the witness) This is in Jugga's handwriting I do not think I could read this I employed no one besides Jugga to write for me. I wrote myself two or three times When I got these letters written I gave them into the hands of the jemadar I did this both with the letters I wrote and those Jugga wrote They were all conveyed by the jemadar

The Advocate-General I think the witness said yesterday that sometimes Kharbai went with him, and sometimes another man I will ask him if it be wished

The President Not if he said so. He did say so, according to our recollection

Examination continued I made a statement to Mr Souter. I do not remember the whole of it, but the statement I made has been taken down It was Monday, the 22nd, as far as I remember when I first made a statement to Mr Souter. I do not know in what month it was

The Advocate General We may take it, my Lord that it was the 22nd December.

Examination continued My statement was taken down by Mr Souter No, the one on the 22nd was not, but it was on a subsequent day. I came to make that statement because early one morning Mr. Souter sent for me In the morning I did not say anything to the sahib He questioned me until about 9 o'clock, but I did not acknowledge or confess (the interpreter said that the word could be used either way correctly) I was then brought to the Kotree, the Residency I saw Mr. Souter at Colonel Barton's bungalow I was then brought to the Residency, and I was desired to sit down in the garden of the Residency I continued sitting there until five or six o'clock Cureem and Fyloo were there. We began to discuss amongst ourselves.

The interpreter The word is 'tukhrar,' discuss or argue.

Witness continued Fyloo and Cureem said with regard to themselves and also in regard to the asyah "We have told the truth, you had better tell the truth, and you will be saved"

Mr Melvill What is the word used?

The interpreter "Butchow."

Mr. Branson But the witness has said more than that.

The interpreter The witness said "We have been there, you had better tell the truth, and you will be saved."

Witness continued Thereupon I sent for Mr Souter's havildar I went for him. I do not know his name, but I could tell him if I saw him

(Meer Eman Ali produced and recognised by witness)

Examination continued I said to the havildar do you take me to the senior or burra Khan sahib That is Akbar Ali I then went to the senior Khan sahib I said to him "I will tell before you the truth regarding the poison" I said to him "If you save my life and get a promise given to me by the sahib, I will tell you the truth"

The Advocate General I do not want to take you through your whole statement I will leave my learned friend to do that if he likes Did you obtain a promise of pardon if you made a full statement?— Yes, and under that promise, I made my statement to Mr Souter Since then I have had no communication with jemadar Nursoo, with the exception of the day on which Nursoo was taken up when the Khan sahib said to me, "Tell before Nursoo the truth you have told"

The Advocate General You are quite sure, Mr Interpreter, that is the interpretation of his words.

The interpreter That is what he said

The Advocate General Ask him to repeat it.

Question asked and witness said The great Khan sahib sent for me and said "Tell before these people the truth by these people I mean Khan Sahib, Rao Sahib, Fyloo, Nursoo and Chotoo.

Mr Melvill He also said "the truth which you have told"

Sergeant Ballantine Yes, that is very important.

Examination continued I was then taken near the jemadar Addressing the jemadar I said "I have told what is to be told I have told all up to my neck" (The interpreter He means the whole from top to bottom) That is all I was allowed to speak to him, and then I was taken away to the police guard room. The belt produced is the belt I used to wear

The witness pointed out the pockets in which he said he used to keep the powders and also the powder which he did not use after making the three powders.

The Advocate General As I understand my Lord, he put the three into the front of the belt, and the remainder which he did not use at the side

Examination continued I was present when some thing was found in the belt Rao sahib and Khan Sahib senior were present when they examined this belt. Also the junior Khan sahib A powder was found in my belt on that occasion

Mr Melvill It may mean one packet

Witness continued The Khan sahib asked me "Where used you to put it?" I said "In the pocket of my putta or belt" He then asked "Where is your putta or belt?" I said "It is in the possession of Bhoodar putta-walla One of Mr Souter's sepoy named Chand went and brought Bhoodar putta-walla to us The belt was then round his neck, he was wearing it. It was on his person The Khan Sahib took it off his person, and then they began to search I mean by them, Khan sahib, Rao sahib, and Khan sahib junior Then a finger was introduced into the belt It was the finger of Khan sahib senior. He found something hard there and remarked "there is something there." (Witness explained his meaning by the belt) He left it as it

was, and sent for Mr Souter, who was in a room just opposite. The Khan sahib opened this part (pointing to the bottom of the belt) and took out a packet which was in white paper. By Khan sahib I here mean Mr Souter. The packet contained the poison a white powder. When it was taken out I recognised it. The sahib asked me if I could recognise it. I said "Yes, I could recognise it; I could identify it." I said to the sahib "This is the package that was left with me through mistake or by mistake." I did not say anything else. After this enquiry the sahib took some information from me and then I left. I do not remember what day it was this package was found in the belt. It was about two days after I gave my deposition. It was the third day, one day elapsed between.

Sergeant Ballantine then rose to cross examine the witness. He said Now just attend to me

The President It is just two o'clock, what would you like to do?

Sergeant Ballantine As you please, my Lord, but if I go on now I should have to stop immediately, and therefore do not want to go on for four or five minutes.

The Court then adjourned for tiffin

When the Court resumed after tiffin, Mr Cursetjee, the new interpreter, was first sworn.

ROWJEE'S CROSS-EXAMINATION

The witness Bowjee was then cross examined by Sergeant Ballantine as follows —

How long did you say you had been in Colonel Phayre's employment?—About one and half years, I think.

Had he been a kind master to you?—He was very kind to me.

You had never complained of him?—No

And yet you consented at once to murder him?—Because the Rajah induced me by offering me money. You did not require a great deal of persuasion?—He offered a lakh of rupees, I am a poor man.

And being a poor man and being offered a lakh of rupees you consented to murder your master, who had always been kind to you?

(Witness muttered something)

That is so, now do not be ashamed of anything?—Yes, I consented.

You really intended to murder him?—I did not intend to murder him, the Maharajah intended

Did you intend by your hand to murder him?—I was instigated by the Maharajah.

But being instigated by the Maharajah, you intended to do it?—Yes, because I was a poor man and was instigated.

You had never had any quarrel with Colonel Phayre?—No.

And so you were ready to become a murderer for money?—I was a poor man and I was instigated. What do I know.

And being a poor man you were ready to murder your master for money?—I was instigated and I consented.

Now, you never got your lakh of rupees?—No, nothing was given to me.

Did you ever apply to the Maharajah for?—I say did not apply.

You know you were examined before Colonel Phayre, after this attempt had failed?—Yes.

After that you were at liberty for nearly a month?—Yes

Did you make any application to the Maharajah during that time?—Never

Did you ever see the Maharajah or get any message from him?—I did not get any message, nor did I see him.

Now as you were a poor man and ready to commit murder because you were poor and were instigated, how was it you did not apply to the Maharajah for money?—I did not go, how could I go?

Why you had been there often enough you know?—Formerly, not after I was dismissed.

But why if you had done what the Maharajah had instigated you to do, did you not apply to him to pay you? Was it because you had not killed Colonel Phayre? On some principles of honour or something of that kind?—Because the affair was not successful.

Exactly so I thought it was from an honourable sense of what was due. You did not think it would be fair to apply to the Maharajah because you had not succeeded in murdering Colonel Phayre?—I did not go nor did I ask him for money.

But why did you not go? You were a poor man and ready to commit murder?—I was not ready to commit murder.

Of course it was the Maharajah who wanted to commit the murder that we all know, but as you were poor, why did you not go to ask him?—I did not go. How could I go and ask him for money?

Did you and Nursoo have any conversation together after your attempt to murder had failed?—No, I had no conversation with Nursoo. I did not leave my house to go anywhere.

Do you know Bhow Poonekur?—He used to come to the bungalow and I knew him.

What used he to come to the bungalow for?—He used to come to the sahib. I do not know why.

Did he come to give information to the sahib of what was going on?—I do not know that.

You have heard him give information, have you not?

The interpreter gave the following answer I did not hear sometimes I used to hear and I used to tell it

Was it talked about among the servants that the Maharajah had sent a khureeta to the Viceroy?—I do not know anything about a khureeta.

Did you hear anything about it?—I did not hear anything about it. I do not recollect.

Tell him just to be careful Will you swear that you heard nothing about a khureeta being sent to the Viceroy?—I do not know, I do not recollect.

From Bhow Poonekur? You need not look that way—No, I did not hear anything from Bhow Poonekur.

Now I am just going into one or two little matters which I dare say you will tell us the truth about. This boil of yours, of which you heard the locality, did you get it from contact with the bottle only, or did the contents of the bottle come out?—The medicine it contained caused the boil.

Did it get out then of the bottle?—It got through the cotton stopper.

And so you found it gave you a boil, did you?—Yes
And so you threw it away for fear you should hurt
Colonel Phayre?—Yes, I threw it away

But, my good man, you know it was given you to
hurt Colonel Phayre, was it not?—Yes

Then why did you not use it? You found out you
know that it hurt, why did you throw it away?—I did
not use it

But why?—Because it injured me I threw it away
I was afraid I would be arrested at once

But you know you attempted to poison, why should
you not have used the liquid as you were told?—I did
not.

But I want to know why?—Because I was afraid I
thought my sahib would be injured and therefore I did
not.

You told Nursoo that you had?—Yes, I told him.
That was a lie?—Yes I told a lie.

You do occasionally indulge in that luxury, do you?
—Why should I tell a lie?

I want to know why you did, why did you tell
Nursoo one?—Everyday a sowar used to come from
the Maharajah to inquire whether the thing was done
or not whether it was put in or not.

Why did you tell Nursoo a lie?—Because he was
after me, I told a lie

Because he was after you But do you tell everyone
that is after you lies?—Why should I tell lies?

Did you tell him a lie because he was after you?—
He was after me, so I told him a lie

Well, you know Mr Souter was after you, perhaps
you told him not one lie but a hundred?—He was
never after me

So what you told him was all the truth?—It was all
true.

You are quite sure about that?—Yes, quite sure
You were careful that you should not deceive Mr
Souter?—I told him the whole truth

Did you tell Colonel Phayre the truth?—Had
I told Colonel Phayre the truth how could he have
believed me He would not have believed one person
Was that the reason you did not tell him the
truth?—Yes

Then you did not tell him the truth because you
did not think he would believe it?—I did not do this
with a view to telling it.

But you told Mr Souter the truth in everything?
—Yes

Now I am going to tell you something that you
told Mr Souter This is upon the subject of the
powder I am calling your attention to the two packets
of powder that were given you upon the occasion you
were promised a lakh of rupees Now, who do you
say gave you these two powders?—Nursoo Jemedar
brought them and gave them to me

Did he tell you that equal parts of each were to be
given for two or three days?—He said "Divide this
into three parts, and use it for two or three days."

In equal parts?—In three equal parts I made
three packets and kept them in my pocket

That is, you mixed the powders together, and used
them in two or three parts?—From each powder
I took a little because I thought the white
was more injurious.

Now I will tell you what you said to Col-
onel Phayre I will read it. You said "A

few days after this the jemedar gave me two pow-
ders and told me that equal parts should be ad-
ministered for two or three days, and in such quan-
tities as to consume the whole in that time." And
you said also "This had also been carefully explained
to me by Yeshwantrao and Salim in the presence of
the Maharajah" And then you go on to say "I did
not commence to administer the powders for two or
three days, as no favourable opportunity presented
itself for so doing

The witness I said so.

Then did you go on to say "The packet of poison
which the jemedar first gave me I made into small
doses as directed? —I made three parts

"And kept the powders in the secret pockets of my
cross belt, and the powder taken from the secret
pocket of my cross belt this morning is one of the
powders made up from the packet given to me by the
jemedar" Is that what you told Mr. Souter?—Yes

Is that true?—Yes

Now I want to go to the last person, the last package
you had who gave you that, the jemedar?—Yes the
jemedar.

Was that a different coloured powder to the others?
You know we have had a pink one and a white one?—
I think the colour was like the colour of this that
(pointing to a darkish grey felt helmet on the barri-
ters table)

Then it was not the same colour as the white powder
given to you?—No, it was dark

Was it darker than that hat?—A little darker I
cannot remember properly.

You put the whole of that in?—Yes, the whole on
that day.

After mixing it in water?—Yes, I put it first in the
bottle, then mixed it in the bottle

But the whole of it?—Yes, the whole.

What was the quantity of the last powder, about
how much?—(Witness here took a pinch of the ordinary
black sand used to dry ink and said) Perhaps a
little more than that.

Was it as dark as this?—That is very dark It
was a little lighter than this

A little lighter than this, is that what you say?—
Yes

Advocate General Mr Interpreter You do not
translate this properly, he said "thora kala"

Interpreter It is a little black

Sergeant Ballantine We have now a little darker
than the hat, but a little less than this (sand)?—Yes

Did you see Dr Seward on the morning you attempted
to murder your master?—I was at the bungalow
and I did see him

Where is Salim now?—I do not know where he is,
but I hear that he is in imprisonment I have been
in imprisonment since several days

You believe Salim is in imprisonment?—I believe
that he is in imprisonment

Tell me how many times Pedro went with you to the
Maharajah?—Three times when he returned from
Nowhere, once after he returned from Goa

Four times altogether?—Yes, four times

And he knew all about this plan of poisoning, did
he?—He was told by the Maharajah the other day

You heard him told?—Yes, I heard him.

And you saw the paper given to him?—What paper?

The paper containing poison or what you believed to be poison?—A packet was given to him in his hand.

But you heard the Maharajah say it was poison, did you not?—Yes, I heard him say that it was poison.

Now on what occasion was that?—After his return from Goa.

That was Pedro's last visit, was it not?—The last visit.

Can you give me the date of that visit at all?—I do not recollect the date.

As far as I recollect it would be the beginning of November when you first received the powder?—First the powder was given to me and after two days I was called.

Well you know when the Maharajah gave you the powder—Oh! let me see it was the jemedar who gave you the two powders, was it not?—First he brought me two and on another occasion one.

Was it before the two powders or before the one that Pedro received the paper?—Before the one that was given to me.

Before the last one?—Before the last one.

You received the last one two days after one was given to Pedro?—Two days after the powders were given to Pedro.

Did you ever hear what became of what was given to Pedro?—I do not know. I do not know whether he has it.

But you were all engaged in the same office? You were all engaged to murder Colonel Phayre?—Yes, we were.

How came you not to ask Pedro what he had done?—Why should I ask him. I did not ask him. He should know his business (laughter) I did not ask him.

As I understand you left Pedro to poison when he liked and you poisoned when you liked?—The Maha rajah was in great haste. He told Pedro and me to make haste.

How do you know?—Salim and Yeshwantrao were persuading me.

That is how you learnt that the Maharajah was in a great haste, is it?—Yes.

But you were told it would not take effect for three months?—I was told that it would not take effect for two or three months.

You never asked Pedro what had become of his paper?—No, I did not ask him.

When did you first accuse Pedro of being a party to this murder of Colonel Phayre?—I accused him before Mr Souter.

Never before?—No, not before.

You did not mention his name when you were examined by Colonel Phayre?—No, I did not mention his name.

Why did you not?—I was afraid.

What were you afraid of?—If anybody does anything, does he do it for the purpose of telling it?

Was this powder left in your belt by accident?—I had quite forgotten about it and still I left it there.

And you administered two doses of this one and one remained behind by accident?—There were four altogether, and I administered three, and one was left.

You administered three?—Yes, three.

Well, you did not divide them into three, but kept one?—(This question was not interpreted).

This is what you say, I think. You mentioned three

"the packet of poison the jemedar gave I made into three packets. I forgot one and kept it in my belt." Do you mean they were equally divided?—The jemedar gave me two powders. Two were given to me originally. I made three, and one remained.

The Advocate General The whole of that answer has not been translated.

Mr Melvill He said I made the rose-coloured powder into three portions, put a portion of the white powder into each, and then there was a portion of the white powder remaining.

Cross-examination continued That was not what you were told to do?—I was told to give it at three times, and to make three portions. What I want to know is why instead of making three portions as you were told, why did you keep back a portion of white arsenic, to make a fourth portion?—It was poison

Mr Melvill No, Mr. Interpreter, he says arsenic.

Witness It was arsenic and if it was given to the sahib something would happen to him.

Mr. Melvill No, no, he does not understand. Ask the question again, Mr Interpreter.

Question and answer repeated

Mr Melvill He means he did not give it all. Sergeant Ballantine So I suppose.

Witness I say I did not give it all.

Cross-examination continued What was the reason you kept it?—By mistake it remained.

By mistake it remained, what do you mean by by mistake it remained?—I kept it in the pocket, and again afterwards I forgot whether I kept it or not.

But why should not you have done what you engaged to do and what you were told to do? I was afraid that something might take place with the sahib of a sudden.

But you put in the whole of the dark powder on the 9th November?—It was a little, and I kept the whole.

A little! You have shown us what it was. Did you think that it would act at once?—I did not know it would take effect at once, and I was told to make haste (jeldie jeldie).

Did nobody know you had any of this poison left?—Nobody knew.

You did not tell anybody?—I did not tell anybody.

Then I suppose your accomplices supposed you had used the whole of the powders you had received?—They thought that the whole was used.

Just a word or two about this wonderful belt. It was a policeman who found something hard in it?—They first asked me where I used to keep my belt.

Did you tell them you had left some of the poison in it?—I did not say anything.

Did you remember at the time that there was some of it left?—No, I did not remember. Had I remembered it I would have taken it out and thrown it away.

Then you were surprised to see it?—I was surprised and confused.

Then if I understand the story rightly you say, 'Albar Ali asked me where I generally kept these things and I said in my belt.' Akbar Ali asked me where did I keep my powders, and I said in the pocket of my belt.

And he suggested sending for the belt?—He asked me "Where is it?" and I told him it was with Bhoodhar.

How came you to give it to him? The new Resident had given it to him.

When was your belt given to this man?—It was given in my presence, but what day I do not know.

But how long before the police were so fortunate as to find the poison?—Many days before that, but how many I cannot remember.

And it never occurred to you that this belt of yours worn by somebody else contained a packet of poison?—I had no recollection whatever about the powder.

Now, when you were examined before Colonel Phayre, were you asked whom did you suspect of having administered the poison, and did you say I suspect Fyzoo, because he has for a long time past been engaged in all kinds of intrigues both in the time of Colonel Shortt and Colonel Barr?—To save my life I said that I suspected him.

So that you first attempted to commit murder and then accused an innocent man?—These people were also going to the Durbar, and if they had done it, how should I have come to know of it?

At all events you accused him to save your life?—When the sahib asked me whom I suspected I said all other people were living in the town and coming and going.

So you accused an innocent man of attempting a murder you yourself had attempted?—As they were living in the town I did accuse him.

Here is the question "Whom do you suspect of having administered poison to the sahib?" and you answered "I suspect Fyzoo"?—I said "Fyzoo lives in the city, and there is a suspicion against him."

Did you say "I suspect Fyzoo"?—Yes

Of course You had not forgotten you had done it yourself, although you had forgotten the powder in your belt?—I had done it.

And accused Fyzoo?—Many persons were taking his name so I kept quiet.

No, no, you did not keep quiet You said "I suspect Fyzoo"?—I was asked and I said Fyzoo was living in the city and keeps coming and going, I suspect him.

That is to say of attempting to murder?—I know of powders only.

What do you mean by that?—I suspected that a powder might have been given to him It was given to me, Pedro and others and I thought it might have been given to other persons.

And that is why you accused him?—Yes

Just tell me, after you had been released after you had been examined by Colonel Phayre, what became of you?—Then I remained at my place I had applied to the sahib for the putta, that is, to be employed

Were you re-employed?—No, the sahib said, sahib you will come to make enquiries, and then you will be reinstated.

Did Bhow Poonekur interfere for you at all?—I do not know whether he interfered on my behalf.

Did you ask him or did he offer to do so?—I did not say anything I was in my home I did not go out

Do you mean to say that you do not know Bhow Poonekur interfered for you?—No

Be a little cautious. Do you mean to say you have not been talking to him?—No.

But do you mean to say you have not seen him?—I did not see him, but he used to come to the bungalow and I used to see him.

Was that before you attempted to poison your master?—About the time the sahib was about to

leave. That is, he was at the bungalow, and I had seen him there.

That was after you attempted to poison him?—Yes.

Well I suppose you and he talked about this matter of poisoning, you and Bhow Poonekur?—No, no talk took place about it.

Do you mean you never talked to him about the affair?—No, I do not recollect.

Perhaps I may be able to remind you Do you not recollect anything passing between you and Bhow Poonekur about the Maharajah?—There was no conversation between me and Bhow Poonekur about the Maharajah

Did you ever talk to him about the Maharajah? I mean after the attempt at poisoning?—No, I did not talk to him about the Maharajah, nor did he talk to me.

Did he not ask you whether the Maharajah knew anything about the affair?—He did not ask me, nor did I talk to him.

Do you mean you did not mention the name of the Maharajah to him and he to you?—No, I never mentioned the name.

Had you seen Bhow Poonekur shortly before you were examined by Colonel Phayre? No

Was Bhow Poonekur present at any of your examinations?—Do you mean by Mr Souter?

Yes?—I did not see him, he was not there

You did not see him about that time?—I did not see him.

Am I to understand that what induced you to murder your master was the promise of a lakh of rupees?—I being a poor man and a lakh of rupees was offered to me

I am to understand then that that was what induced you to attempt to murder him?—Yes it was a lakh of rupees What could a poor man do!

Now I ask you again the question I put earlier to you, why if that was your inducement, did you not make any application to the Maharajah during the months you were at liberty?—I did not go I was afraid and never talked to any one. I did not leave my house

You did not put any poison into the sahib's sherbet either on the Friday or the Saturday?—I put it in on Monday, that is the day the report was made.

And that was the only day?—That was the only one day on which I put it in

The Advocate General The answer was "That was the only day on which I put it out of the packet that was given to me subsequently."

The interpreter Yes, that was it.

Sergeant Ballantine And if any one attempted to do it on the Monday or Saturday, you do not know who it was?—The jemadar brought the packet to me on Saturday

Have you been to the police at all since you were examined by Mr. Souter?—I have been in custody since that time

ROWJEE'S RE-EXAMINATION.

Re-examined by the Advocate General On the first occasion when the Maharajah called you, did he talk to you at all about poison?—No, there was no mention of poison.

What did he tell you?—He said, whatever I heard at the bungalow I should tell him.

And when was poison first spoken of between you and the Maharajah ?—Five months after the return from Nowssaree.

After the Monday on which the poison was put in by you and discovered by Colonel Phayre, you say you remained in your house ? From that day I was suspended and remained in my house.

Did Yeshwantrao or Salim ever come to your place ?—No.

After your suspension ?—No; they never came to my place.

Had you ever been to the palace except with Yeshwantrao or Salim, or both of them ?

The interpreter gave the following answer : I had accompanied them not on any other occasion.

The Advocate General : He says he did not go alone but always accompanied them, if you had only caught him. (To the witness) : Did you ever go into the palace except in the company of Yeshwantrao or Salim or both ?—One or the other was always with me when I was taken into the palace.

Well, you were living in your house after you were suspended ; do you know if any watch was kept over you by the authorities here ?—I do not remember. I never left my house.

Now, you were asked by my learned friend about the mark on your stomach. Is there any scar there now ?—Yes.

The Advocate General : I would ask that he may be made to show the mark to some medical man afterwards.

Sergeant Ballantine : He would not be likely to put the bottle anywhere where there was not a scar to meet it.

The Advocate General : That would be a matter for observation. I want the fact I propose, my Lord, to put in the statement this man made before Mr. Souter.

The President : You had better put it in afterwards.

The Advocate General : Very well, I will put in all these statements by and bye. Perhaps Dr. Gray would now be kind enough to take this man out and examine the scar he speaks of.

The witness was taken out and examined by Dr. Gray

Dr. Gray was then called and examined by the Advocate-General. He said : I have examined the person of the last witness. There are three marks on his belly about an inch and a half above the navel. That is, where the string of his drawers is tied. The marks might have been caused by the action of caustic or a hot iron. They are not such marks as a boil would be likely to leave. They are such marks as a blister would be likely to leave, caused by some burning substance applied to the belly.

Cross-examined by Sergeant Ballantine : What burning substance ? You have heard the story he told. He is supposed to have received a bottle with a cotton stopper, and some of the contents to have come out and reached his stomach. Can you form any idea of how these marks were caused from the story he told ? White arsenic would cause them.

Do you mean without being rubbed in ?—Yes, if it was in contact with the skin.

But a person would begin to feel the irritation in that way ?—Yes, in an hour.

And would these marks be caused in an hour ?—Yes.

Do you really mean to convey that these marks

you found on this man's body could have been caused in the way you have said ? Is that so ?—My belief is that if arsenic were placed in contact with the skin it would cause those marks.

As a medical man you have been entitled to remain in Court and hear that man's evidence. Do you stake your reputation as a professional man that these marks could have been caused in the way he has said ?—I do.

You are stating this, I hope, with a full recollection of all he said ? You remember his account of the swelling ?—Yes.

You have taken that into consideration ?—Yes.

And he described it as something like a boil ; you have taken that into consideration ? Yes.

And am I really to take it that you think these marks you have seen could be accounted for by a bottle in which arsenic was dissolved being in his drawers in the way he said, and a certain portion exuding from the bottle, not on a broken surface ?—Yes, I believe it possible.

Now, are these marks not much more like cicatrices on the belly ? Suppose you had not heard the evidence of the witness, what would you think ?—I would think these marks were caused by caustic, or a hot iron.

I am told, I know nothing about these matters, but I dare say you can tell me if you like, that these marks are extremely common among natives ; that they use cautery on very slight occasions.—They do.

Re-examined by the Advocate General : Is arsenic a caustic : It is.

I understand you to say that in your opinion a solution of arsenic oozing through from the stopper of a bottle on to this man's body, would be capable of producing the marks which you noticed ?—Solid arsenic.

Oh ! you object to the term solution. Would arsenic suspended in water or liquid, if it oozed from the bottle, be capable of producing the marks you noticed ?—Yes.

Sergeant Ballantine : Do you remember the bee's-wax and the cotton ? Yes, I heard the witness speak of it.

Sir Richard Meade : Would caustic applied to a boil have left such a mark ?—It would depend altogether on the age of the boil.

Rowjee was then recalled.

The President : What became of the bottle after you had used it in that way on the Monday ? The bottle in which you shook up the poison ?—I kept it concealed there.

Does he understand ; after he had used it on that Monday morning ?—I concealed it.

Where ? In front, in the verandah where the carriages stand, near the wall,

Was it never found ?—The police came and searched for it, and I pointed out the place, but it was not found.

Did anyone know of your putting it there ?—Nobody knew it.

How large was the bottle ?—So big (shows the size of his fore-finger).

The Advocate General : I suppose the Commission won't take another witness. It is past four now.

The President : The next witness, I suppose, will be long. It is no use beginning.

The Court then rose.

NINTH DAY

BARODA, MARCH 5.

Yesterday almost the whole of the day was occupied in receiving the testimony of Nursoo jemedar. This is another of the batch of conspirators who under influence of the Residency cells have kept Mr Souter well employed in listening to their extraordinary confessions. The Commission, therefore, had yesterday a repetition of the kind of evidence which Rowjee had given them on the previous day. Nursoo detailed in fewer words but with more minuteness than did his coadjutor the visits to the Maharajah and the orders and instructions which they say Mulharao gave them in regard to the poisoning of Colonel Phayre. Nursoo corroborated Rowjee in the more prominent features of the statement he made of the transaction and although the accounts given by the two men differed in some very important particulars, yet on the whole Nursoo's evidence appeared to corroborate that of the havildar.

Nursoo's testimony suffered somewhat under cross-examination, and he was caught tripping in a way which gives Sergeant Ballantine a strong argument for his coming speech on behalf of the Gaekwar. Whenever Nursoo was driven into a corner for an answer he fell back upon his Hindoo belief. He told Colonel Phayre a parcel of lies, he says, because it was his "fate," he because one of a gang of poisoners because it was his "luck," and he boldly accused an innocent man of the attempt to murder of which he himself, with others, was guilty, because it was his "predestination." He had been upwards of thirty years in the service of the Residency, he considered Colonel Phayre as his "patron, ma bap, father and provider of his maintenance," and yet in a conversation which did not last fifteen minutes he promised to poison his master immediately he was asked, incited only by the hope of receiving "money and advancement." He was careful to impress upon the Commission that the few hundreds of rupees he had already received were not for any work he had done but simply in honour of Mulharao's wedding, and he finished up by ascribing the whole of his conduct, to his "luck, fate, fortune and predestination."

It was this individual, it may be remembered, whose attempt at suicide in the well in the Residency gardens was so graphically described by the Advocate General in his opening speech, but a reference to Nursoo's evidence will show that this "rolls out mighty thin, to quote Artemus Ward, as all the jemedar has to say about the matter is that he had just finished his dinner, was disgusted with his own conduct, and his head turning round, he fell into the well. Mr Scoble pressed him hard to make it appear intentional but all the man would say was that he tumbled in.

Two witnesses were called to corroborate minor points and the Court adjourned.

At the sitting of the Court the Advocate General said —There is a rumour, my Lord that the Commission will not sit on Saturday, may I ask if that is so?

The President I was just going to mention it, it is a Hindoo holiday, and the Court will not sit.

The Advocate General Only next Saturday?

The President Yes.

NURSOO RAJANA'S EXAMINATION.

Nursoo Rajana was then called and examined by the Advocate-General. He said I was jemedar of peons employed at the Residency at Baroda. I was employed at the Residency probably 32 or 34 years. I was jemedar about 17 or 18 years. My pay was Rs 14 a month as jemedar, and Rowjee the havildar got Rs. 10 a month. I lived in the city. I usually came to the Residency on duty at half-past seven or eight o'clock. I usually went home in the evening at 7 o'clock, and sometimes if the kutcherry was over early, at half-past 6 o'clock. I remember the time the Commission was sitting at Baroda. About that time Rowjee said something to me. He said "Yeshwantrao and Salim say you should go to the Maharajah's." I said "I cannot go just now, as there is sickness in my house, and I am deeply engaged in my service." After the Commission had left Baroda, Rowjee and Salim again mentioned the matter of going to the city. I knew Salim. I knew him not before, but since he began to come to the Residency. After the death of Khundeaao Maharajah I was in the service of Jumna Bai, and after I returned to the Residency Salim was in the habit of coming to the Residency in the time of Colonel Barr. When I was in the service of Jumna Bai she was at the Residency. I was deputed to serve her when she was at the Residency, and also for two months when she was at Poona. Colonel Barr, who was then Resident at Baroda, and also Mr. Tucker, who came to Baroda, deputed me to wait on Jumna Bai. Yeshwantrao, jasood, spoke to me two or three times about going to see the Maharajah, as well as Salim and Rowjee. Salim and Rowjee often spoke to me about going, he spoke to me on Mondays and Thursdays when the Maharajah was in the habit of coming to the Residency. I eventually agreed to go and see the Maharajah. I went to see the Maharajah. That was about twenty-five days or a month after the Commission had left Baroda. Rowjee and Salim and another man who went with Rowjee went with me. We first went to Yeshwantrao's house. I found Salim and the others at Yeshwantrao's. From Yeshwantrao's house we went to the Maharajah's house, to the barra, that is, the haveli.

The interpreter, in answer to Sir Richard Meade said the word "barra" meant quarter or court.

Examination continued. Rowjee and another man went with me. Yeahwantrao and another man went another road. It was Rowjee and Salim and his companion who accompanied me. We entered the palace by an entrance in the rear, where a new garden has been recently laid out. I do not know its name. Yeshwantrao went by another road and brought the Maharajah. By another road I mean he went by himself from his own house, and probably went into the palace by the first entrance. At any rate he did not go with us. When we arrived at the palace we went upstairs to a room upstairs. When we got there I first sat down on some steps a little below the room. When Yeshwantrao had brought the Maharajah, then Salim said to me "Come upstairs." I went upstairs with Rowjee. Rowjee's companion remained downstairs. When we got upstairs we saw the Maharajah. Salim and Yeshwantrao were with him. When I got into the presence of the Maharajah I sat down. Yeshwantrao

twenty-five days before and another five or seven days before

Sergeant Ballantine (to the interpreter) Now, do you know, I am sure you have not, I do not know your language, but I am sure you have not translated that

The interpreter (Mr Cursetjee) My senior is watching me

Sergeant Ballantine I am speaking now of the fourth meeting. Ask him if he understands that when the poisoning was mentioned for the first time. Did he quite understand that the intention then was to poison the Resident

The witness Yes

And was that the first time that there had been any allusion made to any such intention?—The first time in my presence

The first time in your presence that any mention had been made of it?—Yes If any conversation took place with Rowjee I do not know

But that was the first time you had known anything about it?—Yes

You saw the Maharajah once again, did you not?—That was after the Dussera holiday at the time of the second packet

So that we have it quite clear that at the fourth meeting a packet was given, and at the fifth meeting there was a packet given?—Yes, two packets

And it was about the packet of the fourth meeting not having succeeded that the complaint was made by the Maharajah?—Yes, he became angry, and gave me another packet

Now, I want you to tell me about how long before the attempt to poison Colonel Phayre took place the last meeting was, the fifth meeting?—About five or seven days I do not remember properly

Now, upon that occasion, did you ever ask Rowjee what he had done with the powder he got upon the fourth day, at the fourth meeting?—Salim and others pressed me to know what had become of it, Rowjee then said 'I put it in but no thing happened what shall I do?

Did he tell you that he had kept any back?—I did not ask him, nor did he say so to me, nor did he tell how many times he had put it

Did you make any remonstrance during this time about your master being poisoned?—Before whom?

Well, to Rowjee?

The Advocate General (to the interpreter) Is not there a better word than *tukra*, for remonstrance.

Mr Melville Say *sekaya*

The interpreter used this word, and the witness replied "no"

Sergeant Ballantine Now you have been asked by my friend as to whether Rowjee showed you a boil, or showed you something the matter with his stomach, and you could not tell about the time Well, I will assist you to the time, was it after the last meeting?—About the last meeting or after it, I do not properly remember

Well, you saw the bottle given to him at the last meeting, did you not?—A bottle was kept under a box near our bungalow

But did he show the bottle given to him at the last meeting by the Maharajah?—Something was given, whether it was a vial or some packet, I was ahead and he was behind me

Was it a packet or not?—Whether it was a packet or powder I do not know

That was on the last occasion?—Yes,

Did not you know it was a bottle?—I am not quite sure, but as I was going down I saw something.

Did you see what Rowjee did with it?—No

Did you ask him about it afterwards?—I do not remember having asked him but he showed me that a bottle was given and had caused a boil on his stomach.

This was alluding to what you had seen pass to him upon the last occasion?—It was with reference to the same thing it must be the same vial

Sergeant Ballantine It was about the same while, about the same thing

Mr Branson The same vial

Sergeant Ballantine The same vial, I thought he said while (To the witness) Was that with reference to the same bottle you suppose you saw given on the last occasion?—I do not remember what I understood

Now try and remember It was the same bottle. That is to say the bottle you thought was given on the last occasion?—I think it must be the same bottle. I cannot say for certain

But did you ever see any other bottle?—No

And it was after that last meeting that you say that he pointed out the bottle?—It must have been after that meeting but I cannot remember properly

Why he told you did he not, that he had used it; that he had poured it in?—Whether he said that or not I do not remember

NURSOOS RE EXAMINATION

Re-examined by the Advocate General Now, you told my learned friend just now that the bottle was kept under a box in our bungalow?—Yes

By "our bungalow" do you mean the Residency?—Yes

Did you ever see that bottle?—I saw it myself

Do you remember when you first saw it?—I saw it only once, I cannot remember properly

Do you remember what the occasion was on which you saw it once?—He showed me that in this bottle after shaking it, it should be put in the tumbler

Who showed you this?—Rowjee

When was it, can you say at all, that Rowjee showed you this bottle?—I do not remember properly

Well how long before the 9th November, the Monday on which Colonel Phayre found the poison?—I do not remember

You say you do not know that Rowjee and other servants of the Residency have charged the Maharajah with poisoning Colonel Phayre?—Yes, I say it

You know what persons have been examined before the Commission here?—I was under a guard, and I have come out to day.

But do you know what persons have been examined before the Commission or not?—After two months I have just been brought out.

The President (to the interpreter) Make him answer the question You appear sometimes to allow him to give you what is no answer to the question.

Question repeated

The witness No, I have been under a guard

The Advocate General Has anybody told you what evidence has been given before the Commission?—No, no one could come near me. They threw bread at me and I eat it.

Sir Dinkur Rao : You are a servant of 34 years; have you been in the habit of visiting the Maharajah from the time of the previous Commission, or of old? —From the time of the previous Commission, not before.

The next question was not interpreted.

The witness : I never used to go before Khunderao Maharajah except with the sahib.

Sir Dinkur Rao : Did you never go before Khunderao to ask for Dussera presents? —No.

Do you state the truth? —This is the truth. It was no custom of the Durbar; some of the Sirdars used to give and there was the Dewan Rao Sahib, and he used to give directly.

When the Maharajah instigated you to poison; this was a very bad thing, did you make provision, for the future support of your family?

The interpreter (Mr. Cursetjee) gave the following answer : —I did nothing, but said merely by words to what was said through Rowjee.

The Advocate General : I understand, Mr. Nowrojee, (the senior interpreter), to say "He gave a verbal assurance."

Mr. Melvill : It is "I relied on what the Maharajah said."

Sir Dinkur Rao : It is a very serious matter to poison anyone, and could one mention it in the presence of ten persons? —There were not ten persons; only two of his servants and two of us.

Was the quantity of poison used small or large, and was it administered three times? —In my life I have never given any poison. I was told to give it to Rowjee.

What servants said that accusations should be made against Fyzoo? —No one spoke of accusing him. Each mentioned his name, it appears, in the statements and therefore I also caused it to be written.

Who mentioned names in their statements? —Abdool, Pedro, Runchord, the hamal; altogether five or six persons.

At the first meeting the Maharajah called you a rogue; how did he then trust you in such a serious matter? —Rowjee and Yeshwantrao and Salim took me and they assured the Maharajah.

Are you a Hindoo? —Yes.

What is your caste? —I am a Telingee Cammattee.

Are you afraid of the police? —For what.

For telling the truth? —Why should there be fear for telling the truth.

Do you yourself believe that you are guilty? —It is my bad luck; I am also concerned in it. It is my fate.

If you are granted a pardon would you in the presence of God tell the truth? —It is not if I get a pardon, but I tell the truth whether the Sircar pardons or not. They are my *ma bap* (father and mother).

Mr. Melvill : He says "If I were offered a pardon I would speak the truth; I am speaking the truth now."

The question Sir Dinkur Rao put was "Supposing he was offered a pardon, would he make a more truthful statement than he has made here?"

The witness : Besides this there is no other truth. What is true I have said. The Sircar is my father and mother. They may hang me if they like.

Sir Dinkur Rao : You have served a person thirty-five years against whom you have been dishonest

Now, if in the presence of God you will tell the truth, tell it. Do not be afraid. Whatever is in your mind, tell it without fear in the presence of God.

The witness : I have stated without fear what I had to state.

The President (to the interpreter) : Have you put it in that way, "In the presence of God?"

The witness : In the presence of God I have stated that is true. I have not stated an untruth.

JUGGA BUGWAN'S EXAMINATION.

Jugga Bugwan was then called and examined by Mr. Inverarity. He said : I was employed as punkawalla in the Residency. I knew Rowjee the havildar and Nursoo jemedar. I knew Salim and Yeshwantrao, the Maharajah's servants. I have been to Yeshwantrao's house. It is in the city. I and Rowjee havildar went. I went with him on two occasions. When I got to Yeshwantrao's house I saw his karkoon there. That was on the first occasion. I went about seven o'clock in the evening. When I got to Yeshwantrao's house his karkoon gave me rupees. He gave me Rs. 500. I got Rs. 100 to keep. The other 400 were taken away by Rowjee havildar. Rowjee havildar gave me the Rs. 100 to keep. Rowjee got them from Yeshwantrao's karkoon. This first visit was about fourteen or fifteen months ago. I went on the second occasion seven or eight months after this first visit. That time also I went at seven or eight o'clock at night, I saw Yeshwantrao, Rowjee, Salim and Nursoo jemedar at the house on that occasion. We five persons went to the havalee. When we got there I was made to sit down below. The other four went upstairs. They went upstairs by the Nuzzer Baug entrance. I waited till they returned. They were away about two hours. When they came back Rowjee havildar and I returned to the camp. I was not paid money on any other occasion. (A document is shown to witness.) This is my handwriting. (Witness is told to read it to himself.) I wrote this at the request of Rowjee havildar and Nursoo jemedar. I wrote two or three notes besides this. I wrote them for Rowjee and Nursoo; they requested me to write. I wrote from what they told me. When I wrote the notes I gave them either to Rowjee havildar or Nursoo jemedar. I wrote as they told me, they knew the substance. The other letters I wrote were not like this one.

Mr. Inverarity : I do not mean if he wrote this letter over and over again, but if the others were like it.

The witness : Yes, they were like it.

The Advocate General : I think, my Lord, it will be convenient to put this letter in now. I shall prove afterwards that it was found in Salim's house. My learned friend does not object.

The President : It is put in, you saying that you will prove it was found in Salim's house.

Sergeant Ballantine : I have seen the document, and I have the power to consent to its being put in, and I do so, so as not to give your Lordship further trouble.

The letter was then put in and marked X.

Mr. Inverarity read the letter, and it was as follows :—

(Translation.)

This day the Poonekar said to the Saheb that the

Maharajah had made a new Waudo,* that her name was Gangabai, that her father was a washerman, that the Maharajah had caused a Nuzerana of rupees seven thousand to be paid to her from the Patan Mahal, and that those people had come to prefer complaints, but that no one listened to the same Secondly, Bapu Saheb (sekwar had come He (the Saheb?) inquired ' Well, how are you? He answered that he was well by the Saheb's blessings The Saheb then inquired

Do you go to Dadabhai and Shabuddin for your business? Then Bapu Saheb answered as follows —

There is no necessity for my going (to them) As long as you are here it is not necessary for me to go to any one What do these people know of the administration of justice, and what do they do? These people ask each other's advice at doing nothing and enjoy themselves Thirdly, the Poonekar said "Saheb, all the people became glad on hearing the reports of a cannon, assembled together and began to say that some great sahib had come from Bombay to inquire into the cases of all On account of this happy news all the people had collected Then the sahib said "The gentleman is the General sahib who has come from Ahmedabad to review the regiment Fourthly, Rakhmabai's brother has presented a petition He says that his sister should be made over to him The sahib became very angry with him Fifthly, I shall come to morrow bringing with me Cawasji You should therefore send Salim

* This word signifies a house, and is used here to signify a wife

The examination continued (Two letters are shown to witness) I do not know who wrote these letters Neither of them is in my handwriting

Sergeant Ballantine I have nothing to ask this witness

COLONEL PHAYRE'S RE EXAMINATION

The Advocate General Perhaps I may take this opportunity of stating with reference to the document for which I stated I should telegraph the other day that there is some difficulty about having the files produced, and I shall not, therefore, be able to get them from the Government records I shall therefore leave my learned friend to take such course as he pleases

Sergeant Ballantine As I have already intimated to my learned friend I am most anxious not to introduce anything which might be thought to create ill feeling or unpleasantness I will supply my friend with a copy of the document, and if Colonel Phayre will acknowledge that it is a fair copy, it will not be necessary to re-examine him

The President That will be the better plan

Sergeant Ballantine If Colonel Phayre will look over it carefully and will say it is a substantially correct copy, we will hand it to the hands of the Commissioner and the matter will be at rest

KARBHAI AMASING'S EVIDENCE

Karbhai Amasing was then called and examined by the Advocate General He said I am a punka walla I was not employed last year as a punka walla at the Residency but I was this year I mean the Hindoo year I do not recollect what month I know the havildar of peons I went to the city with him by night I

went with him several times, but I remember going four or five times I do not remember how many days it is since I first went with him, but it is true I went It was in the hot weather, the last hot season When I went with him to the city, we went by the road to Yeshwantrao's place We went there on all our visits There we were in the habit of seeing Yeshwantrao, (after hesitating) Salim and Nursoo jemadar From Yeshwantrao's house we went to the Sircar's havalee We might have gone more than once, but I do not remember I did not go alone, Nursoo jemadar Yeshwantrao, Rowjee and Salim went with me When we got to the havalee we went in side When we were inside we had to go up three flights of steps and we were made to sit in a room They used to go somewhere

The President Who

Witness Rowjee, Nursoo jemadar, Salim and Yeshwantrao I remained sitting in the room, where I waited until they returned I remember going on two or four occasions I was generally kept waiting half an hour while they went somewhere

KARBHAI'S CROSS EXAMINATION

Cross examined by Mr Branson How long have you been a punka puller in the Residency?—On the last occasion fifteen or twenty days, but I have been previously employed there

How long have you been a punka walla that is my question?—I have been employed on two occasions, On the first occasion for a month, and afterwards for fifteen or twenty days

When was the first occasion when you were employed for a month?—When the pulling of punkas began

Punkas were not invented only when you came into the world Answer the question When were you first employed as a punka walla at the Residency?—After the Hoolee holidays

The last Hoolee? Yes, last Hoolee

When was that? I do not know

The interpreter I will look (Referring to the TIMES OF INDIA Calendar) It was 2nd March

Cross examination continued You say you were employed for a month there?—Yes I was for a month

When was the second time?—About the time the punka season was nearly over

I have no doubt that presents something very vivid to your mind, but unfortunately it presents none to mine When was it?—I do not remember

When was it?—Three months ago

Then how long were you employed?—Fifteen or twenty days

Did you know either Rowjee or Nursoo before you were first employed?—Yes before that I used to know them

You are prepared to swear that?—Yes

Before the first time you were employed as punka-walla you knew Rowjee and Nursoo?—Yes

And it was not through your employment that you became acquainted with them?—For the most part, I became acquainted with them on account of my service

Have you ever mentioned before your having gone into the havalee and having gone up three flights of stairs, as you have described to day?—Yes

You have mentioned it before?

The interpreter He says he did not, before he says he did, and now he says he does not remember

First you did, and then you did not, and now you do not remember. Did you mention to Mr Souter a word of it?—Yes.

Now look here. I will read to you what that very careful gentleman Mr Souter wrote down as what you told him "I sometimes used to go as far as the haveli when I waited below while the others went upstairs." Is that what you told Mr. Souter?—Some times I used to go upstairs, sometimes I waited below

Is what I have read to you what you told Mr Souter? —I said to Mr Souter that sometimes I remained below and sometimes I went upstairs

Then what I read to you just now is not correct?—I do not know that

Have you been in custody? Yes
How long?—Two months and a half.

What for?—On account of this evidence.

What do you mean? What fault are you imprisoned for?—I told him what I had seen, and therefore I am kept in imprisonment

Sergeant Ballantine You told the truth and therefore you were locked up?

Advocate General He said custody, not imprisonment

Mr Branson Oh! well, if you like to draw the distinction

The Advocate General He said *khyd* which merely means surveillance

Cross-examination continued How long had you been in custody before you made a statement?—Three days, but I used to go home in the evening

Were you in charge of the Khan Sahib?—For three days and then I was taken to Mr Souter.

Did it then take the Khan Sahib three days to elicit from you what you told Mr Souter?—I was not asked anything for one day

But the other two you were?—I was asked the third day

It took the Khan Sahib three days to get out of you what you told Mr Souter?—I do not recollect that

Was Jugga kept with you when you were under the eye as you call it, of the Khan Sahib?—When I was taken up first I used to go home.

Will you answer my question?—Jugga was not kept with me I was alone

Did you see Jugga before you made your statement to Mr Souter?—I had not seen him by sight.

Was he not in custody?—Yes

And you too?—At that time I used to go home.

KARBHAI'S RE-EXAMINATION.

Re-examined by the Advocate General On the first day you were not asked anything but you were allowed to go home?—I was asked in the evening and allowed to go home

On the second day?—Nothing was asked me on that day I was allowed to go home

On the third day, did you make your statement to Mr Souter?—Yes.

Since that time have you been under surveillance is you call it?—On that day I was allowed to go home

Yea, but since that time have you been under surveillance?—From the day following the day of the arrest of the Maharajah.

The Advocate General It is a quarter past four my Lord

Sergeant Ballantine The speaker is at prayers (laughter)

President We shall assemble to-morrow morning Sergeant Ballantine As your Lordship pleases The Court then adjourned

TENTH DAY.

BARODA, MARCH 6

YESTERDAY forenoon, at eleven o'clock, the Commission resumed its sitting. The Maharajah Scindiah was absent as also His Highness Mulharao. Sir Lewis Pelly was present in the forenoon

As on the previous days, the Advocate General and Mr Inverarity, instructed by Messrs Hearn, Cleveland and Lee Warner, appeared for His Excellency the Viceroy in Council, Sergeant Ballantine, Mr Branson, Mr Purcell, and Santaram Narayan, instructed by Messrs Jefferson and Payne, appeared for the Gaekwar. Mr Vasudeva Jagornath, pleader of the High Court, also watched the proceedings on behalf of His Highness

Mr George Taylor and Mr B M Wagle were present on behalf of the Ranees and the infant child of His Highness the Gaekwar

Several witnesses were examined yesterday. The first was Dajeoba Narrutom a bricklayer, who stated that he had ordered several articles of jewelry for Rowjee by his instructions. Shevalal Vittu and Doolub Mundodas, the two goldsmiths who made the ornaments, were also called and gave an account of the various articles they made for Rowjee, amounting in the aggregate to the value of upwards of Rs 500. Dulpet Govindram was then examined, and his evidence was important as being one of the missing links in the series of incidents which forms the case for the prosecution. This witness was a karkoon in the service of Yeshwantrao, one of Gaekwar's servants, and a number of witness have testified that it was at Yeshwantrao's residence the self styled poisoners generally met before they proceeded to the haveli to hold their conversations with the Maharajah. There has hitherto been no independent testimony on this point and although Govindrao did not completely corroborate these statements, yet he acknowledged to seeing the conspirators there once, on which occasion he handed them Rs 500 in accordance with his master's instructions. Evidence was also given as to the searching of Salim's house, and the discovery there of some of the letters to Rowjee and Nursoo state they caused to be written to Mulharao giving him the Residency 'gup'. Sergeant Ballantine objected to the admission of these letters as it had not been proved who had written them, and his objection was allowed, upon which the Advocate General asked the President to make a note of the grounds upon which the prosecution thought they were admissible. This brought down the first rebuke which the Bench has yet administered, the President, reminding the Advocate General there was no appeal from the Commission, told him "you ought not to have asked me in that way to make a note."

Akbar Ali, the head of the detective police in Bombay, was also examined and deposed to finding the "remaining packet of poison," Rowjee so often spoke of in his evidence as being hidden in his belt. The Khan Bahadour detailed the way in which he found it, and explained that he ripped open the belt to get the poison out of it, and that that accounted for the packet now being bottomless. Sergeant

and Bowjee began some conversation with the Maharajah. I also had some conversation with him. At first the Maharajah expressed his anger against us. The Maharajah said "This man is a *loocha* or rogue, why did you bring him?" Rowjee said "No, he will not be roguish now."

The Advocate General asked the interpreter if "roguish" was a proper translation.

The interpreter referred to the lexicon and found that the word used by the witness "*loocha*" meant rogue or scoundrel.

Witness continued The Maharaja said —

The President No, the question was whether the witness said anything or not

Question repeated, and witness said No, I heard what they said, but I did not say anything. The Maharaja said "Through Salim you will communicate news and information from the Residency." I said "Very well." That is all I said. Nothing further occurred at this interview. I went to see the Maharajah on another occasion about a month, more or less, after the first, I do not quite remember. Rowjee and Salim went with me, and there was a man with Bowjee. His name is Kharbhai. On this second occasion we saw the Maharajah. Rowjee was with me. Kharbhai was not allowed to see the Maharajah, he was made to sit down below. Kharbhai was a punka-walla employed at the Residency. On this second occasion a conversation took place between Rowjee and the Maharajah. In the course of the conversation if a question was put to me I said "yes". These two visits I have spoken of took place at nine or half-past-nine o'clock at night. I left this place at eight or half-past-eight o'clock. On the second occasion also I first went to Yeshwantrao's and then to the Maharajah's. Yeshwantrao and Salim and I went into the palace together. Between these two interviews I have spoken of, I used to see Salim. He used to come to the Residency and we exchanged salaams. I said nothing to him. Rowjee and Salim used to sit together. Yeshwantrao and two or three sowers used to come before the time the Maharajah came to the Residency. I remember going to Nowsaree with Colonel Phayre the Maharajah also went to Nowsaree at that time. Salim went with him, but not Yeshwantrao. When Salim was at Nowsaree he lived in the same bungalow—(The interpreter Perhaps he means compound)—with the sahib, there were also two or three other sowers there. I mean they lived in the compound. While I was at Nowsaree, Rowjee caused a present to be given to me. Perhaps there was some arrangement made between Salim and the Maharajah. I know Rowjee caused it to be given to me from what he said to me. Salim said nothing, and Bowjee said Rs. 150 have been given to you, and I said "What am I to do with the money here?" He left that money with Salim.

The President Who left it?

Witness Bowjee. When Salim was about to return to Baroda, Rowjee said, "The money has been sent to your house." After Salim had paid the money at my house, Rowjee told me it had been sent. He said "The money has been paid to your brother." On my return I came to know that the money was received. While I was at Nowsaree I did not go to see the Maharajah, but when the sahib went to see him on two or three occasions

I went with the sahib. I had no private conversation or interview with the Maharajah, and after my return from Nowsaree I went again to see the Maharajah, it would be a month after more or less, I do not remember. I went first to Yeshwantrao's house, and there I met the persons who usually went—that is, Rowjee, Kharbhai, and Salim. Yeshwantrao did not go with us. He was in his house when we got there. He said "You go on I will follow." We went from Yeshwantrao's house to the haveli. We entered the haveli by the entrance in the garden side. On this occasion I saw the Maharajah. After we had waited some time he came there. I saw him in the same room as before. Rowjee and Salim all saw the Maharajah. Kharbhai never went with me into the presence of the Maharajah. Jugga went once. When I and Rowjee were admitted into the presence of the Maharajah on this first occasion after the return from Nowsaree, Rowjee had some conversation with the Maharajah. Rowjee used to write in a letter the names of persons who used to come here. I mean Rowjee used to write an account of the conversation that used to take place at the Residency. Yeshwantrao, Salim and the Maharajah were all sitting there. Rowjee said "The presents on account of the marriage" I understood him to refer to the Maharajah's marriage which had taken place. Yeshwantrao said, addressing the Maharajah in Maharathee, "Nothing has been given to these persons." The Maharajah said "Do make some arrangement with regard to those persons."

Sir Richard Meade Was not *kuroodah* the word he used?

The interpreter No, *kuroodah*

Examination continued No present was given there at that time, but afterwards I received a present. It was ten or fifteen days afterwards. I do not quite remember I received Rs 800. Salim brought the money to me. We divided the money. I and Rowjee. Some money was also paid to a punka-walla and some to Salim. The name of the punka-walla is Jugga.

Mr Melvill I think he said that Rowjee paid the money to the punka-walla ?

Question repeated and witness said I paid the money to Rowjee, and Rowjee paid it to the punka-walla. I paid Salim Rs 100. I got about Rs. 300 of the money for myself. When Rowjee wrote the names of those who visited the bungalow and the conversations which took place on a chitty, in the depth of the monsoon he did not convey the chit himself, but gave it to me. I mean Rowjee did so. Rowjee used to give the note to me, and Salim got it from me. I should say some twenty or twenty-five chits so passed between us. Not on the regular days, the Mondays and Thursdays they used to come to the bungalow, but on other days. These chits were written every day with the exception of Mondays and Thursdays. After I had got the Rs 800, which I divided as described, I went to see the Maharajah. It would be about a month or a month and a half after, but I do not remember. On this occasion I went to Yeshwantrao's house first. From there Rowjee and Kharbhai went with me. There was also Salim, who went first. One of Yeshwantrao's men also went with us. On this occasion we saw the Maharajah at the same place as usual. It is a small room where there is a bench and a mirror. Some candlesticks made of brass are also there. The

Maharajah sat on a raised bench. We sat on the floor. On this occasion when I saw the Maharajah Rowjee and I went into the presence of the Maharajah. Salim and Yeshwantrao were with the Maharajah. The Maharajah had some conversation with Rowjee. I heard it and took some part in it. The Maharajah said "The sahib now becomes very angry, and some endeavour should be made with regard to that." Yeshwantrao said "The Maharajah will give you something and you try to put it in." The Maharajah said "Yes, you should do something by which the thing should go into his stomach." I said "With regard to the food that does not lie in my province, and I will not be able to do it." Rowjee said "If you like I will put it into the pummelo sherbet which he drinks." (Answer repeated.) The Maharajah said "Very well, try to do it." The Maharajah added "I will send a packet which should be given to Rowjee." Yeshwantrao and Salim said in regard to what the Maharajah said : "When he gives it to us we will bring it." "If the thing is done," the Maharajah said, "it will be good for you;" and Yeshwantrao repeated the same thing. The Maharajah said : "You shall be well provided for, so that you will have no need to serve and you will be maintained," and Salim and Yeshwantrao also said the same thing. This interview lasted about ten minutes or quarter of an hour. I do not remember the month when this interview took place. It took place twenty or twenty-three days or a month before the poison was discovered in Colonel Phayre's tumbler; I cannot remember. No packets were given to me at this interview. After the interview Salim gave me a packet. That was on the next day. He gave it to me at my house. The length of the packet was so much (the length of his finger), and it was made of Ahmedabad paper. Salim said "This is the packet to which the Maharajah referred; give it to Rowjee." I did not open the packet. I kept it in the folds of my turban. When I came to the Residency at 8 o'clock I gave it to Rowjee. After I had given this packet to Rowjee I saw Yeshwantrao and Salim again at the bungalow. I saw them on the fourth or fifth day. When they came to the Residency on the fourth or fifth day I did not hear the conversation that took place.

Mr. Melvill : He says "I did not see Rowjee speaking to him."

The witness : Salim asked me about the packet, and I said I had given it to Rowjee.

Mr. Melvill : He says "He asked me whether I had given the packet to Rowjee, and I said I had."

Examination continued : There was no other conversation on this matter after this. Rowjee went there and I do not know whether he had or not. I had no conversation on this subject with Rowjee after this, but we were always together. I went again to see the Maharajah after the Dussera procession. I went because Rowjee said, "Those people are anxious; they say nothing has been done as yet."

Mr. Melvill : I think "pressing" would be a better interpretation than anxious.

The Interpreter : It would have been a better rendering.

Witness continued : I told Rowjee "You ought to know whether you did it or not."

The Interpreter : The Dussera, my Lord, is on the 23rd October.

The President : But did the procession take place on the day of the Dussera?

The Interpreter : I do not know. I will ask about it.

Rowjee said : "As far as I am concerned I did put it." Nothing more occurred between me and Rowjee at this time. This was eight or ten days after the Dussera procession. I went to see the Maharajah about five or six days after this; I do not remember. It was seven or eight days before the poison was discovered by Colonel Phayre. When I went to see the Maharajah on this occasion I first went to Yeshwantrao's house as usual at eight or nine o'clock at night. Rowjee and Jugga puuka-walla went with me to the bawalee. I and Rowjee saw the Maharajah. We saw him at the usual room. Salim and Yeshwantrao were with the Maharajah. When I was in the presence of the Maharajah he (using a word of filthy abuse) said "You are rogues."

The Interpreter : He uses the same word of abuse as was used by the last witness.

The witness : Abusing, he said, "You have not done anything as yet." I said "Rowjee ought to know that."

Mr. Melvill : He says "He knows it."

The Interpreter : I think he means "He ought to know that"; however, it will stand that interpretation also.

The witness : Rowjee said "So far as I am concerned I did put it in." Rowjee added "What can I do if your medicine is not good." The Maharajah said to Rowjee "Very well; I will send another packet, and you do it well."

The Interpreter : *Barobar kurro* are the words he used.

The witness : The Maharajah said "Put it in well." He said "Very well."

The President : That is Rowjee? Rowjee said "Very well."

The interpreter : Yes, my Lord.

Examination continued : Yeshwantrao and the Maharajah both said "It will be brought to you tomorrow by Salim, so do you give it to Rowjee." Nothing was further said. I left and Rowjee waited a little while. The next day Salim gave me a packet like the previous one. He gave it to me near my house. Outside my house. I brought it with me and gave it to Rowjee at the Residency in the place where we are in the habit of sitting on the form. This was five or seven days before the attempt to poison Colonel Phayre was discovered. I do not remember which. I remember that Monday on which the attempt was discovered. I came on duty at 8 o'clock on that day. I saw Rowjee sitting on the seat which we used to occupy at the Residency. It is near the sahib's private office, that is our usual seat. I had not any conversation with Rowjee that morning. I had some conversation with him after the noise, discovery, or excitement (*gurbur*) was made. It was after the doctor sahib had come and gone. Rowjee said "The doctor has taken a tumbler with him." Having said so Rowjee went in front of the bungalow. I had no further conversation with him at that time. Rowjee said to me, "The doctor sahib took away the tumbler into which I had put it." When I came from home I found

Salim sitting at the Bungalow I had no conversation with him. I went on to the Bungalow I was examined by Colonel Phayre on this day. My written examination was taken either that day or the following day I was not suspended from my employment I remained on duty at the Residency until I was arrested by order of Mr. Souter. I remember Rowjee being taken before Mr. Souter From the time that Rowjee was taken before Mr. Souter until the time I was arrested I had no conversation or communication with him. After I was arrested I saw Rowjee seated at a distance from the place where I was examined or from where my depositions were taken. Before I made my depositions I do not remember if any one had told me what Rowjee had said.

The President I have got it "I do not remember any one telling me what Rowjee had said."

Examination continued At the time I made my statement I did not know what Rowjee had said Before I made my statement no promise of pardon was given me. Before making my statement I saw Sir Lewis Pelly , he was sitting with Mr Souter

Sergeant Ballantine I must take your opinion, my Lord, upon this, which I feel to be a matter of some importance, or I would not interpose Anything that passed between Sir Lewis Pelly and this witness can not be given in evidence by him.

The President Sir Lewis Pelly was sitting with Mr Souter. This was before his statement just when he was about to be examined I think the question may be put what passed between him and Sir Lewis Pelly and Mr Souter just before he was going to be examined (To the interpreter) Ask him was anything said to him by Sir Lewis Pelly or Mr Souter just before he was about to be examined

Witness No , they did not. They heard all my statement

Advocate-General Was anything said about a pardon ?

Sergeant Ballantine After he has said that nothing else took place, can he be asked that ?

The President Just so, and besides, he has already said that no promise of pardon was made

Question not put.

Examination continued Since my arrest I have been in the regimental sepoys' guard at the Residency. I was guarded a short time by native sepoys, latterly by European soldiers After my statement had been taken down I remember going one day into the garden at the Residency. It was on the very day on which I had made the statement In the garden I fell into a well After a long service this happened, and I thought I could not show my face to any man That was my fate I had taken my meal, and after finishing my meal I saw a number of persons coming near the well I saw my fellow-servants all standing, and I said after my long service this is my fate and I fell into the well. I saw a number of people, my head turned, and I fell into the well.

The Advocate General What is the word he used, Mr. Interpreter ? I want to know whether he means he fell in accidentally, or threw himself in.

The interpreter The words were *Kosa mengir pada*, I tumbled into the well.

Examination continued I remember Rowjee show-

ing me some scar This was before the occurrence, but when I do not remember.

Sergeant Ballantine —Which occurrence ?

Witness Before the thing was thrown into the tumbler and the matter was noised about. It was a few days before, not many. He said he had received the scars from a vial which he had placed there. When I saw it, it was a swelling, and looked as if it had been burnt as well.

NURSOO'S CROSS-EXAMINATION.

Cross-examined by Sergeant Ballantine How long had you been in the service of the Residency ?—About thirty-two years or more.

You had no quarrel with Colonel Phayre, nor any complaint to make of him ?—No I regarded him as my patron, as my *ma bap*, my father, as the person who provided me with the means of maintenance. It was my bad luck that I listened to what these people said

Whether it was your bad luck or what it was, you were willing for the purpose of getting money to poison your father or best friend, or to help it ?—I was instigated by Rowjee , that was my luck, my predilection

But was it for money , that is what I want to know ?—As for the money I did not receive it for this, but in honour of the marriage.

Then what were you to get for this ?—I was told it would be good for me , it would be better for me.

Did you understand by that you would get money, get advancement ?—Yes, so I understood.

So you understood And that is why you engaged in the affair ?—Yes

Of course, you are to get nothing for the statement you have made to day ?—No, nothing.

I suppose you would not take money to perjure yourself ?—No , I would not.

You would take money to commit a murder, but not to perjure yourself ?—What could I do. It was my luck, fortune, my fate

You said that Rowjee used to take down what passed at the Residency with a view to reporting it to the Maharajah ?—Yes, and he gave a note which I used to give to Salim.

On pieces of paper or in a book or what ?—On pieces of paper sealed up, and which same letter was sent every day

You do not happen to have one, do you ?—No.

Do you know if any one of them is in existence ?—These notes may be with Salim or with the Sircar

Now I just want you to tell me the room in which you first saw the Maharajah Just describe it to me, if you please ?—It was a small room, and there was a bench in the room.

Just describe the rest of the room ?—There were two mirrors, one clock , that was at night. I did not observe what else there was.

Were you in the same room every time, or a different room on some occasions ?—It was in one and the same room

One and the same room always ?—Always.

Was there bath in the room ?—Perhaps it led to a bath-room. There were a number of rooms adjoining. There were doors leading to other rooms.

What I understand you to say is that there was no

bath in this room or doors leading to a bath-room. Is that what you say?—Perhaps the door if opened might lead to a bath-room.

It might have led to a variety of rooms. Did you see a bath-room?—I did not.

What you said about the doors you merely guessed they might lead to a bath-room?—Yes, or it might lead to some place outside.

You know nothing about it?—No.

You have never been into the palace since, have you?—No.

You were examined before Colonel Phayre, by Colonel Phayre, or in his presence, were you not?—Yes

And I suppose you promised to tell Colonel Phayre the whole truth as far as you knew?—I did, but I told him what was not true, which he took down in writing.

Your conscience had not begun to work at that time?—No. I did not tell him what was really that case.

It was what you call your luck to tell him a parcel of lies?—That was my predestination, that was my fortune.

What religion are you?—A Hindoo.

I am not so well acquainted with these things as I ought to be. Among the falsehoods that your predestination led you to tell, tell me if this is one?—In connection with the attempt to poison the Resident my suspicion falls upon Fyzoo for reasons already disclosed?—Yes, when I gave my deposition I did make that statement.

You knew at that time that Fyzoo was innocent of it?—Fyzoo and a Mahomedan were in the habit of coming there, and Salim was in the habit of coming there.

Let me hear that answer again?—Fyzoo was in the habit of coming there, and Salim was in the habit of coming, and a Padree sahib was in the habit of coming to our bungalow (meaning the Residency). Salim was in the habit of going to Fyzoo's room and sitting there. That is all.

But what had the Padree sahib to do with putting the poison into the sherbet glass?—Fyzoo had a room in the compound of the Residency bungalow, and Salim and all these other persons were in the habit of sitting in that room.

Was that the reason you charged Fyzoo?—All the other servants caused Fyzoo's name to be written in the depositions so I did the same.

That you and the rest of the servants might agree in the same story?—I heard that, and I also made that statement.

That you might agree in the same statement?—Yes

Although you knew it to be thoroughly false?—Yes, I caused a false story to be taken down.

I suppose you and Rowjee agreed upon making Fyzoo the victim?—No, I did not agree.

You knew that Rowjee had made the same statement, did you not?—Not only Fyzoo but all the servants.

The President He was asked whether Rowjee had made the statement not Fyzoo.

Sergeant Ballantine Yes, my Lord, the interpreter mightie Int again.

Pondering-eter, I will put it again, I think it was Witness c^r know whethe

Sergeant Ballantine (with a bow to the interpreter) I am very much obliged to you. (Laughter)

Witness I did not make the statement simply because I knew that Rowjee had said, but because—

The President That is no answer to the question. Did he know that Rowjee had said so?

Witness I do not know.

Cross examination continued Did you and Rowjee talk the matter over before you made any statement?—No, Rowjee had been taken up and confined (after a pause) before his examination.

That was not till the 10th. How did you know that the other servants charged Fyzoo?—Abdullah, Pedro, a Muselman, a hamal, they all caused that statement to be taken down.

I suppose you know nothing that Rowjee and the other servants have agreed to charge the Maharajah?—No, I do not know that.

Do you know that Rowjee and the other servants have charged the Maharajah?—No

But are you aware that Rowjee has charged the Maharajah?—With regard to this matter the packet which was given and brought to me and which packet I delivered, there in no falsehood about that matter.

I will save you that trouble of saying that again. Everything you have said to-day is perfectly true. I suppose you will say that?—Yes, what I have declared to day.

Does he know that Rowjee and the other servants have charged the Maharajah?

The interpreter In order that this question may be made fully intelligible to him may I say charged with what

Sergeant Ballantine Charged with instigating to poison. Does he know that Rowjee and the other servants have charged the Maharajah with inciting to poison?—I do not know that.

Now do you quite understand my question?—No, that is not the case.

What is not the case?

The interpreter The question I put is this, the Maharajah had been charged with attempting to poison, do you know that Rowjee has given evidence charging the Maharajah with inciting to poison

Sergeant Ballantine You ask him questions I should not be allowed to ask. What does he say?

The interpreter He says "No, I do not."

Sergeant Ballantine My Lord, I am about to cross examine on a point some little time, and I should not like to begin it and have to be interrupted, and it only wants a few minutes to two

The Court then adjourned for tiffin.

When the Court resumed after tiffin, the cross-examination of the witness was continued as follows

Sergeant Ballantine How many meetings had you altogether with the Maharajah?—Five or six times.

The thing must be of sufficient importance to you to give the number. Give me the number exactly?—Perhaps, five

Be good enough to answer my question. How many? Do not say perhaps?—I think it was five times.

Yes, so do I. Now, upon the three first occasions there was no mention or allusion to poisoning?—No.

Then, I know it has been given already, but I wish you to repeat again, who were present on the fourth occasion?—Yeshwuntrao, Salim, the Maharajah, Rowjee and myself.

And upon that occasion it was appointed that the packet of powder should be sent?—Yes.

Fix the date of that occasion as near as you can?—I do not remember the day of the month or the day of the week,

I do not desire either the day of the month or the day of the week, but how long was it before the attempt was made upon Colonel Phayre?—One packet was given to me about

Ballantine closely pressed the sturdy detective, who, however, did not swerve from his statements. The learned sergeant was more successful in his questionings about the two Bhoras who were taken up in consequence of being mentioned in relation to the transactions about which Damodhar Punt has confessed. After a good deal of fencing Akbar Ali acknowledged that the two men were kept in confinement while endeavours were made to obtain from them, a confirmation of the Punt's story and as those endeavours had failed, the two unfortunate Bhoras had been sent to jail with it being taken before either Mr. Souter or a magistrate. Akbar Ali said that was another matter, a big affair which is to be enquired into when this enquiry is finished and he naively added endeavours are still being made to obtain from them a confirmation of the Punt's confession.

Wusutram Bhikareeram, who was manager in one of the Gaekwar's shroff shops in Bombay, was also called, and stated that about ten months ago he read a chit to the Gaekwar at the request of His Highness. The note was neither dated nor signed and as far as the witness recollects its contents were gossip on what was going on at the Residency. For the offence of reading this letter, the witness plaintively said, he had been under the surveillance of the police. The last witness called yesterday was Mr Boevey, Colonel Phayre's son-in-law, and the late Assistant Resident. He said that the ayah was frequently absent from the Residency, and that she afterwards confessed she had been to the palace and received money. Mr Boevey also said that he knew Bhow Poonekur very well, and that he was in the habit of visiting the Residency and giving useful information about the Gaekwar to Colonel Phayre, for which, however, he received no remuneration. After Mr Boevey's evidence was concluded, the Court adjourned until Monday, when it is said Damodhar Punt will be examined.

DAJEEBA NURROTUM'S EXAMINATION

At the sitting of the Court the first witness called was Dajeeba Nurrotum. Examined by Mr Inverarity he said I am a bricklayer. I knew Rowjee, the bavildar at the Residency. He asked me to get ornaments made for him. He first asked me about the time of the Dewalee before last. I went with him and pointed out the house of a goldsmith named Shevalal. The ornaments made on that occasion are written in the goldsmith's book. This was sixteen months ago, but I will tell what they were as far as I remember. There were a pair of silver anklets called todas, a man's gold necklace called kuntee, one gold wristlet called kungree, two gold finger rings weighing one tola, a boy's waist ring of silver and a pair of small silver anklets for a boy. The making of these ornaments commenced in the month of Kartik (October or November), and the ornaments were taken away as they were ready. I did not keep an account of the ornaments for Rowjee. At the time all the ornaments were made the goldsmith gave a writing (A paper is shown to the witness). This is the writing. It was given to me in the presence of Rowjee, I said to Rowjee "Take away this receipt of yours." He said "I will take it away to-morrow or the day after." The writing remained with me till I was called to the Residency. I then gave it to the Ahmedabad Fouzdar, Gujarnund Vittal, he gave it to the sahib. (The list is put in and marked Y.) Sergeant Ballantine I understand this is the goldsmith's writing.

The President Do you object to its being put in?

Sergeant Ballantine No, my Lord, the goldsmith is to be called to prove it.

Mr Inverarity then read the document which was as follows —

SHRI (WEALTH) II

The khata of Duxni Raaji Wagh, of Samvat 1930 (1873 4)

month Kartik (February and March 1873), through Patel Dajeeba Nurrotum—

Credit Side	
Cash received from himself (Rowjee)	₹ 220 0 9
Debit side	
One golden string, weight 6 tolas at ₹ 22 per tola	114 2 0
Charges for making a gold string	5 0 0
One anklet of silver in weight ₹ 75 premium at annas 4½	95 11 9
Charges for making the anklet	4 8 0
Total	₹ 220 0 9

SHRI (WEALTH) II

The khata of the Duxni Raaji Wagh of Samvat 1930 month Falgoon (February and March 1873), through Dajeeba Nurrotum—

Credit Side	
Ready cash received through Dajeebabai	₹ 64 0 0
Do in the month of Jaitrh, day 8th (1874, Monday, 18th May, if on 3rd)	22 0 0
Do in the month of Ashad, 7th Sun- day (18th June 1874)	121 0 0
Total	₹ 207 0 0
Ready cash through himself	6 0 0
	213 0 0

Debit Side	
Golden bracelet in weight 5½ gudiana wal 3, at ₹ 22, through Dajeeba	₹ 65 5 0
Charges for making the above	3 0 0
Golden ring, weight 1 tola, at	22 0 0
Charges for making the ring	8 0 0
Griddle of silver	19 7 6
Charges	1 0 0
In the month of Ashad Shoodh 15, (1874, 29th June, Monday if 1st, 29th July, Wednesday, if 2nd)	
Silver anklet in weight ₹ 75 at the premium of as 4½	96 11 0
Charges of the above	3 0 0
Puttees of gold in weight 4½ tolas, including Charges	98 12 9
Puttees of gold, weight 1 tola, including charges, wal 4½	26 4 0
Total	₹ 345 8 3

Examination continued I remember Rowjee's marriage, I do not remember when it was

DAJEEBA NURROTUM'S CROSS EXAMINATION.

Cross examined by Sergeant Ballantine How was it you were employed to get ornaments made for Rowjee — I was living in the city, and Rowjee said "Do you know a man of your acquaintance?"

Where does the goldsmith live? — On the road side, near a peepul tree. Is it near where Rowjee lives? — No, it is not in the city of Baroda

SHFVALAL VITTUL'S EXAMINATION

Shevalal Vittal, called and examined by the Advocate General, said I am a goldsmith. I live near Gunpatrao Madhew, near the rode side outside the city. It is not in the Camp. I know Dajeeba Nurrotum the last witness. He is an acquaintance of mine. He got some ornaments for me for somebody. They were for a puttawalla. His name is Rowjee. He was employed in the service of the sahib at the Residency Bungalow. That is what was stated to me. I made some ornaments for him. I have not got my account book showing me what ornaments

ments were made, but it is here. (Book produced.) This is the book kept by me in the ordinary course of business. I am not a learned man. I do not know how to read or write. I get anybody about to write for me. About the time of the Dewalies I made some anklets for Rowjee. It is all written in this book.

The Advocate General : But as you cannot read them, you must draw on your memory.

Witness continued : It was the Dewalies before the last. I could not find Rowjee's account in the book. (To the Advocate General) : If you want it you had better find it yourself. On that occasion I made one anklet, one gold necklace called kuntee; one wristlet called kungnee, weighing two tolas, and other things. As I made the ornaments I delivered them. There would be altogether two anklets, called todas, one silver waistchain called kundora, two wristlets called kungnee, one neckchain called kuntee, two finger rings weighing one tola of gold, two child's wristlets of silver, and I also gave a number of gold coins called putters, Venetians. Sometimes I gave these to Dajeeba and sometimes to Rowjee. Sometimes Rowjee received the ornaments and once or twice the other man. I do not remember whether it was ten or fifteen days before or after the Dewalies that I first made these for Rowjee. I did not make all of them about the Dewalies. I made some of them subsequently. (The ornaments were produced and testified to by the witness.) The neckchain called dora is not amongst the ornaments produced. The value altogether of these ornaments are about Rs. 800 or Rs. 475. I do not remember the exact amount. It is all written in the book. I received full payment for them, not leaving a pice. I received payment from Dajeeba and Rowjee, and I was paid the whole written down in the book. I was not paid all at once, but I received different sums at different times. I gave a written account to Rowjee of these ornaments. I do not remember who wrote it. Any person would write it who came to me at the time. I should ask him to write it. If I can recognise the paper I might recognise it. (Is shown the paper.) This may be it.

Sergeant Ballantine : I have nothing to ask this witness.

Doolub Munodas's Examination.

Doolub Munodas, examined by Mr. Inverarity, said : I am a goldsmith, I know Rowjee, who was employed at the Residency. He does not live near me, but we both live in the bazaar. I have made ornaments for him. I made four ornaments of gold, called koortee; and a gold chain to be attached to them round the ear. I have not got a regular account of the ornaments I made for him. I have an account of the sums I received. (A book is shown to the witness.)

Mr. Inverarity : Look at the 11th of Ashad Sood.

The witness : Here it is.

Mr. Inverarity : What is the date?

The witness : The 11th of Ashad Sood; the year is not mentioned. It was in the last Hindoo year, 1930. There are items making up $\text{Rs } 11-8$; that is $\text{Rs } 7$ and $\text{Rs } 4-8$.

Mr. Inverarity : The English date is 25th June 1874.

Examination continued : On the 7th Ashad Sud (4th August 1874) there is an entry for $\text{Rs } 20$. There is also another entry for the same amount; making $\text{Rs } 40$. On the 9th there are also $\text{Rs } 20$; making $\text{Rs } 60$. This $\text{Rs } 60$ was paid for the purpose of making the gold chains I mentioned before. On the 14th there are $\text{Rs } 8$ received. Altogether I received from Rowjee $\text{Rs } 79-8$. (Witness is shown ornaments.) These are some of the ornaments I made for Rowjee; two rings, two ear-rings, and two ear-chains.

Sergeant Ballantine : I have nothing to ask.

Dulput Govindram's Examination.

Dulput Govindram was next called and examined by the Advocate General. He said, I know Yeshwantrao; he is in

the service of the Gaekwar. I was in Yeshwantrao's service. I have been in his service for the last year and three-quarters. I used to keep the keys of his boxes, and do whatever he told me. I served him as kaskoon. I had the key of his money box. I could recognize Rowjee and Jugga if I saw them. (They are called into Court.) I have seen these men before. I have seen them at Yeshwantrao's house on one occasion. That was about a year or 14 months ago. I saw them at night about 8 o'clock. On that occasion I gave them $\text{Rs } 500$, in Baroda rupees. I gave them the money by Yeshwantrao's directions. Yeshwantrao was upstairs in his house when these men came.

Sergeant Ballantine : I have nothing to ask.

Chugunlal Damodardas's Examination.

Chugunlal Damodardas, examined by Mr. Inverarity, said : I am sheristedar to the Ajra Fouzdarie Court at Baroda. I know Salim, the Gaekwar's servant. I know his house. I remember a Gaekwarree police guard being placed round his house. That was about the 23rd December. I do not remember the exact day. I went the day after the guard was placed round the house in company with Hormusjee Ardaseer Wadia, the Hoozoor Fouzdar, to make a search. There was a Bombay Police havildar with us. (Meer Enam Ali is called into Court.) That is the man. Hormusjee Ardaseer Wadia was the Chief Hoozoor Fouzdar employed under the Gaekwar. I was also employed under the Gaekwar. I saw papers found in the house. They were made up into a packet and that was tied in a handkerchief and taken to the Hoozoor Fouzdar office. I went with the papers to the house, and Hormusjee Ardaseer Wadia and Meer Enam Ali also went. A label or paper was then put on the handkerchief, and four Fouzdarie seals were put on the corners by me. I did this by the directions of Hormusjee Shet. One of my sepoys carried the packet from Salim's house to the Fouzdarie office, and it was carried in the same buggy in which I sat. After the packet had been sealed a memorandum was put on the label, that this packet contained papers found in the house of Salim. The packet was then given to Enam Ali havildar, and he took it away with him. (A handkerchief is shown to the witness.) I do not know if this is the handkerchief in which the packet was tied. (Examines it carefully.) This is the handkerchief.

The President : You must have better means of identifying this than by the handkerchief.

The Advocate General : Oh yes, my Lord.

Sergeant Ballantine : There has been really no cross-examination on that point.

Meer Enam's Examination.

Meer Enam Ali examined by Mr. Inverarity, said : I am havildar in the Bombay police. I was present with the last witness and Hormusjee Ardaseer Wadia when the house of Salim was searched. I saw some papers found there. These were sealed up and handed to me by the last witness. I brought that packet to show it to the Sahib under a guard. On the 29th December I handed it over to Rao Sahib, and Salim was brought there, and it was placed there in front to be opened. It was then opened before Salim in the presence of Mr. Muneebha. Between the date I received it and the date it was opened, as described the packet was kept in our police guard. When I produced it to be opened it was in the same condition as when I received it; all quite perfect.

The President : He means last December, I suppose?

Witness : Yes.

This witness was not cross-examined.

Muneebhai Jussbhai's Examination.

Muneebhai Jussbhai, Native Assistant at the Residency, examined by Mr. Inverarity, said : On the 29th December last I was present when a packet was brought to the Resi-

dency by Emam Ali. A paper was gummed on the packet so as to cover the knot, and there was a seal at each corner of the paper. They were the seals of the Fouzdarie Court at Baroda—an ink impression. My impression is that "papers found in Salim's house," or words to that effect, were written on the label. I was present when that packet was opened in the presence of Salim. I did not make a list of all the papers in the bundle, but certain papers were taken out and I made a list of them. The exhibit X produced is one of them. It bears my signature at the back, which I put there at the time. The two letters produced were also in the packet, and they also bear my signature made at the time.

The Advocate General : I propose now, my Lord, to read these letters and put them in.

Serjeant Ballantine : I should like to know upon what grounds my learned friend proposes to read these letters.

The Advocate General : Upon precisely the same grounds as those upon which exhibit X was admitted. These were letters furnishing information to the Maharajah of what went on at the Residency.

The President : But you proved the writer of exhibit X.

Serjeant Ballantine : I might have objected to what Rowjee admitted, as well as to other letters, but I have not done so.

The President : I know you have not. You see, Mr. Advocate General, you proved who was the writer of X, but you have not done so of this.

The Advocate General : I submit, my Lord, that these letters are admissible in evidence upon these grounds. Rowjee has said, and Nursoo has also said that they were in the habit of getting letters written—indeed every day except on Tuesdays and Thursdays—giving information as to what went at the Residency, and that these letters were given to Salim. In Salim's house letters were found answering to that description. I apprehend, my Lord, that there can be no doubt about the letter having been found unless my friend believes they were put there on purpose, and although we do not prove the hand-writing, I submit they can be admitted in evidence. Unless it be contended that they are forgeries and have been put in Salim's house, they are good evidence of the character of these communications. Serjeant Ballantine : My objection is a very simple one. You must connect the letter written with the writer, or prove that it was written by his authority. Without that, I submit, that no letter is receivable under any rule of evidence whatever.

The Advocate General : I maintain they are admissible as they come upon the very ground mentioned by my friend.

The President : I think you have not sufficiently connected them at present.

The Advocate General : So Your Lordship rules they are not admissible.

The President : I think at present that you have not sufficiently connected them to make them admissible.

The Advocate General : Your Lordship pleases. (After a pause) I ask your Lordship to take a note of the ground upon which I wished to read them.

The President : Certainly, it will appear in my notes. You know there is no appeal from this Court. I think you ought not to ask me in that way to make a note.

The Advocate General : That was not my object I merely asked so that we might have it on record.

The President : You ought not to have asked me.

The Advocate General : Your Lordship pleases.

BHOODAR NURSEE'S EXAMINATION.

Bhoodar Nursee, called and examined by Mr. Inverarity, said : At first I was employed as a putta-walla, or sepoy ; now I have been promoted to be a jemadar. I am employed at the Residency. I was promoted to be a jemadar last month. Rowjee's putta or belt was given to me on 15th

December. It was given to me by the Assistant in our office, Mr. Blanford. After it was given to me I put it on. It remained in my possession until the 25th December, Christmas Day. It was in my possession during the whole of that time, from the 15th to the 25th, except the times when I used to go to bathe or to drive, when I took it off and put it in the dewree, where the peons used to sit. On Christmas Day I did not do anything, but the Khan Sahib asked me to produce my belt. It was on me. The Khan Sahib said I want to examine your belt. I took it off and gave it to him. The belt produced is the belt. There is a pocket here (pointing to the front). It is not exactly a pocket but a groove for the sword to go in. I did not know of any pocket at the back of that place.

This witness was not cross-examined.

AKBAR ALI'S EXAMINATION.

Khan Bahadoor Akbar Ali, examined by Mr. Inverarity, said : I am head of the detective police in Bombay, I have been in the Government service since April 1881. I accompanied Mr. Souter to Baroda to make enquiries into his case. I made an examination of this belt (produced). That was on the 25th December last. On examining that belt I found a powder or a packet. I had asked Rowjee where he was in the habit of keeping the packets he used to bring. He made a statement that the packets which had been given him by the jemadar he used to keep in his pocket. I thought I would be able to find some mark of something having been dropped from the packet into the pocket, and I might find some trace of it. I asked him. "Where is your belt?" He said "It is in the possession of a man named Bhoodar at the Residency." We four persons were present on the occasion—myself, Khan Bahadoor, Abdool Ali, Rao Bahadoor, Gajauand Vittul, and Rowjee. We were then at the place where our sahib was in the habit of waiting. I mean Mr. Souter. This was in the Residency bungalow. When Rowjee told me his belt was with Bhoodar. I sent for Bhoodar. When he came, Rowjee said "This is my belt." Bhoodar was wearing it round his neck or his person.

Serjeant Ballantine : On his neck, or on his person, which? Mr. Malvily : He means round his neck.

The witness : It was round Bhoodar's neck and round his waist.

Serjeant Ballantine : I have been endeavouring to find out how these belts are worn; perhaps the witness will put it on.

The witness put on the belt.

Examination continued : This is the way a putta-walla generally wears his belt. I asked Bhoodar to give the belt to me. Bhoodar took off the belt and gave it to me. I began to search. Rowjee said "Not there but here." When I put my fingers here (in the first place) they went through.

Sir Richard Meade : Call that the slide.

Mr. Inverarity : What did Rowjee say?

The witness : He said "not there," and he pointed here, then I put my fingers in here. This is the back pocket, the secret pocket, I put my fingers in there and felt something hard. I could not take that thing out, therefore I tore this part open. When I saw the packet I sent for Mr. Souter. On the upper part of the belt there was a dirty rag, and Bhoodar said it was his. (The interpreter : That is in the slide.) I think there was also a little bit of white thread in the secret pocket. I did not open the packet. Mr. Souter opened it in my presence. There was some white powder like flour in the packet, Mr. Souter after that kept the packet himself.

AKBAR ALI'S CROSS-EXAMINATION.

Cross examined by Serjeant Ballantine : You speak English, do you not?—No, never : because I do not know it at all.

Do you swear you never speak English?—How could I speak it, inasmuch as I do not know it.

The President Give a direct answer. Does he never speak English?—I never speak English.

Sergeant Ballantine (taking up the belt) Is this the pocket in which you say you found the packet?—yes.

And when you first had the belt the pocket was not torn?—No.

Just show me what portion of it you tore.

The witness pointed it out. I cannot say how much I tore.

I am rather curious to know, why did you tear it?—Because I felt something hard, and I wanted to search and see what it was.

But you know you called Mr. Souter?—After I saw the packet.

But how did it happen that when you felt there was a packet if you thought it necessary to call Mr. Souter, you did not call him before you tore the belt?—I was not quite sure that it contained a packet.

But you knew it contained something. You had your fingers in?—I felt something but what it was I could not tell.

But you knew no more what it was after you had torn the belt than you did before?—I knew more after I tore it, not before.

But why should you have called Mr. Souter at all, till you had ascertained what was in the packet?—That he might come and see what the packet was, medicine or what.

But did you not think Mr. Souter would trust to what you said on the subject?—Rowjee had made a statement to me.

I know Rowjee had made statement to you. What I want to know is, why, inasmuch as you had put in your finger and torn the belt, you did not take out the packet?—Rowjee said that out of the packet he had received, some medicine had remained.

That is no answer to my question. Answer my question. Why did you send to Mr. Rowjee—I beg pardon, I mean Mr. Souter—before taking out the packet? Why did you not take out the packet yourself?—When I heard this that I have just mentioned from Rowjee, I had not taken it out.

Do you mean that you felt the packet and then Rowjee said something? Is that what you mean?—No, after he and I saw the packet we were sitting near each other.

Then you called for Mr. Souter?—Yes.

Then I have not yet had an answer to my question. Why did you call Mr. Souter?—In order that he might open the packet with his own hand.

In order perhaps that he might be present at the finding?—Yes. (Then afterwards) I do not understand the question.

Was not your motive to have a witness to your finding it?—There was the Chief quite close to me, and therefore I sent for him. If he had not been close at hand I should not have sent for him.

Yes. Then that was your only motive, you did not wish to have witnesses to your finding?—As to a witness there were three witnesses.

Who were they?—Rowjee.

But Rowjee was not a respectable witness, you know?—There were Khan Bahadoor Abdool Ali, Rao Bahadoor, Gujanund Vittul and myself.

You had no idea of finding a parcel?—No, I thought there would be some trace or mark in there.

Then a paper quite surprised you?—Yes, when Rowjee made that statement.

Rowjee made no statement at this time I mean when you found the paper?—I had no idea what it contained.

Had you any idea that there would be a paper parcel at all?—I could not. I felt something hard.

Look here. Did not you know, it was a paper parcel

without tearing up the belt?—I could not say there was a parcel.

You have the credit of a good deal of sagacity. Do you mean to tell me you did not know it was a paper parcel?—When I felt the hard substance, how could I tell it was a parcel?

Did not you know it was a paper?—Yes, I felt it was a paper.

And did not you feel there was something wrapped up in it?—No, not something wrapped up in the paper.

Did you think it was a bit of loose paper?—I could not possibly say if it was a loose paper or a tied up paper.

Or a packet? So to ease your mind upon that subject you tore open the belt and had a look?—Yes.

Having done that and seen it you called for Rowjee?—After Rowjee had made this statement.

Now look here. You tore open this belt and you found this parcel, do you mean to say that Rowjee made any statement at that time?—Yes just at that time.

What did he say?—He said “Out of the packet which I had received before there was some remained of the medicine left, and this is it.”

So that before you called Mr. Souter, you had learned from Rowjee exactly what it contained?—Yes, if I had not learned that I would not have opened the packet.

So if you had not learned that from Rowjee, you would not have opened the packet. But I thought you sent for Mr. Souter that he might see what the packet contained?—Yes.

But you knew yourself?—From the statement that Rowjee made.

You put such faith in Rowjee that you did not think it necessary to verify his statement by looking—I did not open the packet, because the sahib was close by.

Now look here. Had Rowjee ever said a word to you about having left a packet in his belt, or was it only your sagacity which led you to search the belt?—Rowjee had not mentioned it to me, he had simply stated.—(Pausing) Oh! I asked him where he used to keep the packets.

The packets—now wait a moment. He had never told you that he had kept back a portion and wrapped it in another parcel and put it in his belt?—He did not state that to me.

What was Rowjee given into your custody for, or when did you take him first?—He was brought to me on the 22nd.

By whom?—I sent for him. I sent Khan Bahadoor Abdool Ali and Rao Bahadoor Gujanund Vittul.

Who brought him?—A sepoy brought him. I sent for him.

Did he confess to you he had been administering poison?—Not at first.

No, I suppose not?—He said something to Khan Bahadoor Abdool Ali which caused him to be brought to me.

How long had he been in keeping before he was brought to you?—From eight o'clock in the morning to seven in the evening he remained with me.

Not with you, I suppose?—No.

Where did you deposit this valuable articles, where did you put him?—He was kept where the other dismissed servants were kept.

Where is that?—In the garden, within the compound at the Residency.

He was brought to you and then he made a confession about this poisoning, is this so?—Yes.

That is so. It all came from him. You had no information of it before?—These servants began quarrelling amongst themselves. They fell out amongst themselves.

That is not an answer to my question, and you know it very well. I want to know if you heard it from him, or whether you had heard about it before and asked him questions?—He made a confession to me of his own accord.

You had never heard a word implicating him before? Just be cautious, Mr. Akbar Ali?—No, not that he was implicated. I heard that he had been squandering money; Will you swear you heard nothing else?—About what?

About his being implicated in the poisoning?—I had not heard from any body that he was concerned in the poisoning.

Had you heard from any body that he had received poison when he was brought up to you?—No.

Not a word about it?—Not that he had received poison.

Not that he had received poison. After he had made the statement to you did he go back or was he confined with two other servants?—When he made that statement, but not before. When he made that statement he was kept in confinement.

But was he sent back or kept in confinement with the other servants?—In a separate place

You say he made the statement on the 22nd, is that so?—Yes

Do you swear he was kept separate from that time?—From the 22nd till the 28th he was in my charge

That was not the question. Do you mean, Sir, to swear that on the 22nd, after he made a statement, he did not go back to the other servants?—He did not go to his house

Now, Mr. Akbar Ali, I have never cross examined an Indian Policeman before, but I have met these gentlemen in England Answer my question Do you mean to swear that on the 22nd, after he had made his statement, he did not go back to the other servants? It is a very plain question—Not where the other servants were He was in my charge.

Do you swear he had no intercourse with the other servants that day?—Whether he saw any of the servants or not I cannot say, but it was by my orders that he was placed under a guard of sepoys

Then he might have seen the other servants, might he?—Not that I know of How can I tell.

But he may have done?—I have no grounds for so saying. Have you grounds for saying that he did not?—My orders were that he should not talk with any body

Will you swear that you gave orders he was not to talk to anybody?—Yes I had given orders that he should not be allowed to talk with any of the prisoners (After a pause) One circumstance happened—

Well, if you are going to volunteer something I may as well have it?—He was brought and confronted with the jemadar.

Who brought him and confronted him with the jemadar?—I and Rao Bahadoor Gujanund Vittul, Khan Bahadoor Abdool Ali ordered a sepoy to bring him

Where was the jemadar at that time?—He was with me, and Rao Bahadoor Gujanund Vittul and Khan Bahadoor Abdool Ali

After the sepoy had brought him, you say you confronted Rowjee with the jemadar, how was that managed I want to know?—Rao Bahadoor Gujanund Vittul and Khan Bahadoor Abdool Ali said to the jemadar that Rowjee had acknowledged to me everything he had done. Thereupon I sent for Rowjee.

Oh! first of all you said that the jemadar was told Rowjee had confessed everything he had done?—Yes.

Did they mention what he had confessed?—No.

Then you sent for Rowjee, did you?—Rao Bahadoor Gujanund Vittul and Khan Bahadoor Abdool Ali said "If you like I will send for Rowjee." The jemadar said "You may send for him."

And he was sent for?—Yes.

And you found him at home? Not in his house, but where our people were.

And he was brought to you?—Yes.

When these two were confronted, what took place?—Rowjee said "Baba (a familiar term) I have said everything up to my neck."

It was after that the jemadar made a confession, was it?—Yes, he said I will tell you the fact.

And then did he tell you the fact the same evening?—Not to me.

To whom?—I said "Do not make the statement to me, come before the sahib."

Did he make any statement to you?—None at all.

Just tell me how many persons have you in custody connected with this charge?—I have witnesses in my charge, not prisoners.

I suppose by witnesses in your charge, you mean witnesses you won't allow to leave?—They were collected and kept for fear that they might go away, and we might not be able to find them again.

How many are there, that is what I want to know, witnesses and prisoners, how many?—There were no prisoners in my charge.

How many witnesses?—Twenty or twenty two. I have got their names if you want them.

But I do not. Do you know a person named Nurroodeen Borah?—Yes.

And Nurroodeen Borah?—Yes, I know him.

Are they both in prison?—Not in my charge, but they are in jail.

They are both in jail?—Yes.

Have they been in your charge?—How can they be? They are in the jail.

Have they been in your charge?—They were in the charge of Khan Bahadoor Abdool Ali and Rao Bahadoor Gujanund Vittul,

Who brought them and kept them in the place where they were?—They two I have mentioned

They were with the other witnesses, were they?—Yes, but separate.

When did they go into jail?—Khan Bahadoor Abdool Ali knows, and he will tell you. He has a memorandum of the dates and everything.

But tell me about when?—Fifteen or twenty days ago.

From this time?—I cannot say whether it was fifteen or twenty days ago.

Up to that time how long had they been kept as witnesses before they were sent to jail?—They were not kept with the witnesses they were kept apart.

How long?—Khan Bahadoor Abdool Ali knows the number of days.

Have they ever been taken before any magistrate?—I do not know.

Do you know if they have been before Mr. Souter or anybody?—Not in my presence

Have you ever heard of their being?—I would have told you if I had heard

Did you try to get evidence from them, and when you could not get evidence from them sent them all to jail?—As to their evidence Rao Bahadoor Gujanund Vittul knows

Mr Akbar Ali, do you know perfectly well that an endeavour was made from day to day, and it was not till you failed that you sent them to jail?—Let me recollect it (Witnesses pauses for some time.)

Now you have recollect?—Damodur Punt mentioned the name of Nurroodeen's father.

I know all about Damodur Punt. I want to know whether they were kept in charge of the police as witnesses, and then when you could get nothing out of them according to your view, you sent them to jail?—I now recall to mind the reason they were sent to jail. It was in connection with some arsenic that they were sent to jail.

Now that you have got your recollection perfect, what was it in relation to, some arsenic?—Damodur Punt said that he had bought poison from a Borah's shop.

And upon Damodur Punt's statement, where these two persons examined?—Three Borahs were there Borahs by caste.

What I want to know is were they examined? Did the police examine these men?—Yes.

Did they keep them in custody with the witnesses or as witnesses for some time?—Yes they were, but in a separate tent.

Sergeant Ballantine A separate what?

The interpreter (loudly) A separate tent.

Sergeant Ballantine Do not be angry

The interpreter I speak distinctly, and you do not hear me. I am not angry

Cross-examination continued! Were endeavours made to get them to confirm this statement of Damodhar Punt's—that is a big affair, and that enquiry is to take place hereafter

Will you be kind enough to remember that this is a big affair and that an enquiry is taking place just now? So just now answer the question?—This is one thing and that is another

Mr. Akbar Ali, answer my question, if you please. Was an endeavour made to get these two men to confirm Damodhar Punt's statement?—Yes, and more endeavours are still being made (laughter)

That is to say they are sent to prison?—Yes, and they are to be examined

AKBAR ALI'S RE-EXAMINATION.

Re-examined by the Advocate General Just take that belt please. You say you tore open this belt at the lower part?—Yes,

Was it fastened then?—Yes, it had been sewn up And you tore open the stitches?—Yes.

You say Mr. Souter was close by at the time, where was he?—About ten paces from there

In some room or other?—In an adjoining room separated by a chick

In the Residency Bungalow?—Yes Mr. Souter desired me to wait, so I waited while he went to wash himself

Did he come as soon as he was called?—Yes, he did.

Who was it first mentioned the belt? Did you mention it to Rowjee or to Mr. Souter to you?—I mentioned it to Rowjee

When did you first mention the belt to Rowjee?—When Rowjee told me that he was in the habit of keeping the packets in the pocket of his patka or belt

Did you at once stand for the belt as soon as it was mentioned?—Yes

Before Bhoodar came, had you had that belt in your possession?—I had never seen it. I did not know Bhoodar.

When you found this packet in the belt, did you consider it your duty to call Mr. Souter?—Yes, because he was my chief

It is to say Rowjee was brought to you on the 22nd?—On the 22nd

At what time of day was he brought?—Eight o'clock in the morning, seven or eight.

Did you when he was first brought to you, put any questions to him?—Yes

What was your reason?—Did you send for Rowjee?—Yes

What was your reason for sending for him?—My suspicions rested upon him. Both my sahib and I suspected him strongly.

Why did you suspect him?—Because we received information from all sides that he had been spending large sums of money, and that he was the last person who came to the room where the sherbet was

In the morning you say you put questions to him but he gave you no information?—Not at that time

Did you see him again between the morning and evening?—Yes

Did you speak to him?—No, I had no time to speak to him till the evening.

Nursoo was not arrested that day?—No, he was on duty what duty?—As jemadar at the Bungalow.

Was Nursoo with Rowjee and the other servants who were in your custody?—Nursoo was not in my custody at all.

Was he together with the servants who were in custody?—No, not at all

What servants were in your custody on the 22nd?—They were not in my custody, but they were brought for the purpose of making enquiries.

At all events you had them there?—Tyzoo and Jugga were brought up from where they were in custody

Who else?—Also Rama Barak, who had been delivered into custody by Colonel Phayre.

You say that Rowjee was in your custody from the 22nd till the 28th December?—Yes

With the exception of the occasion on which you say he was allowed to confront Nursoo, did he see or speak to Nursoo at all?—He has not been allowed to see or to converse with Nursoo at all up to the present time. He saw Nursoo on the 21st

Did Rowjee say anything more to the jemadar than what you told us, "Baba I have told everything up to the neck"?—He said nothing else.

Or did anybody say to the jemadar what Rowjee had said?—Not at all

Now, since the 22nd December, in what part of Baroda has Rowjee been kept in custody?—Where we live

Where is that?—For a few days on the maidan near the Residency

Is that in the Residency compound?—Outside the compound.

How was he kept? With the last witness, or in a separate tent?—In each tent two or three or four persons were kept in the custody of a police sepoy.

And from the tent near the Residency where did you transact for yourselves?—Behind Colonel Barton's bungalow

When did you remove to those quarters?—Before the Mohorrum on the 2nd or 3rd of February

And has Rowjee been kept there ever since?—Yes

Where was Nursoo kept?—He was under a guard of Native regimental sepoys for a few days, and for a few days under a European soldier's guard

In what place was he kept?—Within the European Residency, where the guard was stationed

Has Nursoo ever been under your charge?—No, he used to be brought up for the purpose of his deposition being taken down

But he has never been in your custody?—No, not up to the present time

Have you anything to do with the matter in which the three Barahas are in custody?—No Gujanand Vittul has to do with that

Let me make this point clear. You have told us that Rowjee spoke to the jemadar and said, "Baba, I have told you everything up to the neck." When Rowjee said that to the jemadar, did the jemadar say anything?—The jemadar spoke after Rowjee left.

But did he say anything to Rowjee?—No, he spoke to me after Rowjee left.

Sir Dunkur Rao Who had power and authority to make enquiries in this matter, Mr. Souter or you?—Through Mr. Souter I had authority.

Or for the purpose of searching for the packet you sent for the belt, why did you not open the belt in the presence of the sahib?—Because I did not know if it contained a packet.

The Court then rose for tiffin.

WUSUNTRAM BHIKAREERAM'S EXAMINATION.

When the Court resumed its sitting after tiffin, Wusuntram Bhikareeram was called and examined

by the Advocate General He said I had employment under the Gaekwar in his shop, at Bombay, Baroda, and Surat It was a shroff's shop, I superintended the accounts. I used to live in the palace and used to see the Maharajah, I was in the treasury department I know Yeshwantrao he was in the service of Mulharao Maharajah as jissood I know a man called Salm he was also in the service of the Mahajah Yeshwantrao and Salm were not always with the Maharajah they used sometimes to come and sometimes not I also know a man called Damodbur Trimbuk or Damodbur Punt He was in the private service of the Gaekwar He used to pay sepoys and karkoos I remember once being sent for by the Maharajah to read a paper to him That was about eight or ten months ago I went to the Maharajah's There was a piece of paper a chit, and I read it I mean a note The note was lying on the bench I took it up A servant told me to read it and I read it The Maharajah was there and other servants were I read it loud just as I am speaking now It was written in Guze rati The servant told me to read it out Credit it and kept it and on the next day gave it to Damodbur Punt The Maharajah told me to keep it and give it to Damodbur Punt I do not know what has become of the note since I gave it to Damodbur Punt I remember a little what the letter was about It said "Poonekur and Nawab sahib's karkoos are having conversation with the sahib I do not remember the further contents There was no date nor signature to this letter I used to go to the palace every day I used to go where the cloth is st red up The palace is what is called the old havaee and my place of business was there There is a piece goods store room Behind that place there is a new garden called the Nuzzer Baug There is an entrance to the havaee at one side near the Nuzzer Baug

The Advocate General Is that the ordinary entrance or the private entrance?—There is a kutcherry up above (question repeated.)

Witness It is the ordinary entrance

WUSSUNTRAM BHIKARI FRAMS CROSS-EXAMINATION

Cross examined by Mr Branson Let us hear about the Kutcherry

The witness The ground floor is kept for the piece goods store room the first room is a store room and the second story is the judge's kutcherry or Court The judge's name is Uny Penrash

Mr Branson Are you in custody?—Yes

For the heinous offence of reading a letter to the Mahajah?—It is so

Have you been in custody since the 13th February or 14th January I do not remember which?—I have been in confinement since the time of the attachment, it was the 6th Posh Sood (29th of December)

BHIIKAREERAM'S RE EXAMINATION.

Re examined by the Advocate General Is there anything above the second storey?—There is nothing on the third storey

Is there a third storey?—Yes, there are three or four storeys

Do you know how the third storey is occupied?—First passing through the small room there is an entrance to go up

Is there a fourth storey?—I have not counted the storeys, I believe that there is

Do you know how this third and this possibly fourth storey are occupied?—It is lying unoccupied, the people go about, that is all

Have you ever been up into these storeys?—Yes

Now, you say you are in custody, where are you living?

—In a street near Chappa Durwaja, in my own house I have been in confinement in the Senapattee kutcherry since the 6th Posh Sood

In whose custody?—In the custody of the sepoys in the kutcherry
Of the Gaekwaree police?—Yes

MR BOEVEY'S EXAMINATION.

Mr Boevey was next called and examined by Mr Inverarity He said, My name is Arthur William Crawley-Boevey In the month of November last I was Acting Assistant Resident at Baroda, and I was living at the Residency I remember Monday the 9th November On that day I had been out early in the morning I returned about half past eight that morning As I came up to the Residency on my return I saw Yeshwantrao, Salm sowar, and another sowar called Mahdowrao Hile These three persons were in the verandah They were opposite to the entrance at the door I mean by the entrance door the door just in front leading into the drawing room To the best of my recollection I saw 1,200 talking to Salm I first heard that something had been put into Colonel Phayre's sherbet when I came down from dressing at half past nine This was just after the Maharajah had left Colonel Phayre told me of it I afterwards assisted Colonel Phayre in making enquiries among the Residency servants I was present when Kowjee's belt was taken away from him When it was taken away hung it himself on the wall near the private office where Colonel Phayre sits Ameena, who has been examined here, was my wife's ayah She entered her service in April or May last I know that the ayah was absent on several occasions but I cannot say when She was very seldom absent therefore I remember it.

Sergeant Ballantine She was very seldom absent and therefore I remember she was absent very often'

I can remember that she was absent on one occasion at the death of Abdoola's child, and she was absent again not long before the attempt to poison Col nel Phayre took place I remember the day when Mr Souter went into the ayah's room (the 16th December) I accompanied him I think Gajanund Shastri and Khan Bahadore and the junior khan Bahadore went with us I was present when she said something to Mr Souter She then appeared to be very unwell.

Mr Inverarity Do you remember what she said Sergeant Ballantine I object to anything that passed between them My learned friend says I have cross examined to it but I have not cross examined this witness

The Advocate General The ayah was cross examined as to what she said on the first occasion to Mr Souter, and I wish to corroborate her evidence on that point

Sergeant Ballantine I will accept that assertion which is I am sure correct according to my learned friend's recollection but—

The President He can call another witness to prove all that passed if you cross examined about it

Sergeant Ballantine Perhaps my learned friend will call my attention to what passed I have no recollection of it

The President It was some days ago, and I should not like to trust to my recollection

The Advocate General, then read the evidence he referred to

Mr Branson The short hand writer's notes are perfectly clear on the point (Reads)

The President She was cross examined on these matters.

Sergeant Ballantine Never mind, my Lord, I withdraw my objection

Mr Inverarity (to the witness) What did the ayah say?

The witness The ayah said she had been to the Maha-

raja's palace and had received money. She made many other statements, but I do not recollect them, these were the main facts. Mr. Souter took her statement down in writing in my presence on this occasion. I had not seen the ayah before that occasion in reference to this matter. I left Baroda on a Saturday; I think it was the 19th of December.

MR. BOEVEY'S CROSS-EXAMINATION.

Cross-examined by Sergeant Ballantine You know Bhow Poonekur, I suppose?—I know him very well.

Was he a great deal at the Residency?—He was constantly at the Residency.

Was he in the employment of the Resident in any way?—He was on business connected with a British ward, and had been sent to the Residency by Mr. Hope, the Collector of Surat.

You quite misunderstand what I say, was he employed at the Residency?—He was not employed by the Resident, he was employed by the Collector of Surat.

Then he had no employment from the Resident?—Direct from the Resident he had no employment.

Did he receive any remuneration from the Residency?—None whatever.

Do you know of his bringing information to the Residency of what was going on with the Gaekwar?—I do, he often did so.

Did other persons also do so?—Yes, there were other persons.

Did Bhow Keerkar ever give information?—No.

Then tell me, had you any arsenic or preparation of copper at the Residency?—I have never seen any.

I on never procured any yourself for any purpose?—Certainly not myself.

I mean was any procured by your order?—Certainly, never.

I mean after this attempt?—Certainly not.

MR. BOEVEY'S RE EXAMINATION.

Re-examined by the Advocate General You say Bhow Poonekur was employed by the Collector of Surat was he employed to manage the affairs of Meer Zoolukker Ali, a ward of the British Government who had estates in the Baroda territory?—Yes.

Now, you have told my learned friend that by your orders no arsenic or preparation of arsenic was procured after the attempt was discovered. To your knowledge was any arsenic or preparation of arsenic whatever brought into the Residency after the attempt?—Certainly not.

Or was there before the 9th of November any arsenic or preparation brought into the Residency?—Certainly not.

This concluded the examination of the witness.

The President Is the next witness a long one.

The Advocate General The next witness is a very long one.

The President You have no short one?

The Advocate General None that I could conveniently introduce.

It was now four o'clock and the Court adjourned till Monday next.

ELEVENTH DAY.

BARODA, MARCH 9.

YESTERDAY forenoon, at eleven o'clock, the Commission resumed its sitting. All the Commissioners were present, as were also Sir Lewis Pelly, and His Highness Mulharao. In the afternoon, however, the Gaekwar, Sir Lewis Pelly, and the Maharajah Scindia were absent.

As on the previous days, the Advocate General and Mr. Inverarity, instructed by Messrs Hearn, Cleveland and Lee-Warner, appeared for His Excellency the Viceroy in Council, Sergeant Ballantine, Mr. Branson, Mr. Purcell, and Mr. Shantaram Narasen, instructed by Messrs Jefferson and Payne, appeared for the Gaekwar. Mr. Vasudeva Jagannath, pleader of the High Court, also watched the proceedings on behalf of His Highness.

Mr George Taylor and Mr. B M. Wagle were present on behalf of the Ranees and the infant child of His Highness the Gaekwar.

An hour before the Commission met for business the Kutcheri was filled with a crowd eager to hear the evidence of Damodhur Punt, and on the maidan, too, was a large concourse of persons who were unable to obtain admission into the Court. As soon as all the Commissioners had taken their seats the Punt was called, and he stumbled into the witness box in an awkward and clumsy way. He was attired in a green velvet jacket, the other portions of his dress being in keeping. He is big and uncouth, his features are coarse, his skin rough and disfigured as if he had suffered from small-pox. He is of a type different from any of the witnesses who have yet been called. Rowjee evidently prided himself upon his nonchalance and audacity, and Nursoo tremblingly hid his iniquities behind the peculiarities of his religion, but the Punt seems every inch a bully and a coward. When in the box he muttered his answers in a low tone and with eyes cast down he seemed thoroughly ashamed of himself. There is really nothing surprising in this. If Mulharao be innocent, it requires all the repose of which Bowjee is capable to detail a series of falsehoods without quailing, while if the Gaekwar be guilty then of all men Damodhur Punt is showing himself devoid of that "honour even which exists proverbially amongst rascals. Sergeant Ballantine, however, was determined that the chief witness should not shuffle through his evidence, and his request that the Punt should meet his master face to face, and that his voice should reach the ears of the accused, obliged the ex-Private Secretary of the Gaekwar to screw up his courage to turn his face in the direction of the Maharajah.

The whole of yesterday was devoted to the examination of the Punt, and when the Court rose it had not been completed. From what he has already said, however, he is certainly the most formidable witness who has yet been called. Sir Lewis Pelly was not reckoning without his host when he repeatedly asserted that Damodhur Punt's confession was of the utmost importance. The Private Secretary detailed the several occasions on which he was ordered by Mulharao to obtain arsenic for the purpose of curing a horse of the itch, and on every occasion on which he had done so he handed it, in obedience to his master's order to Salim, a very important piece of evidence when the testimony of Rowjee and Nursoo is remembered. He frequently too—every four or eight days, he says—was told to get diamonds, and hand them over to Yeshwantrao, the statement being on one occasion that they were required for the crown of the Swami or High Priest of Akulkote. When they were handed to Yeshwantrao, that person said, according to the Punt, that they were to be made into a powder to be given to Colonel Phayre. The description given by

Damodhur of the conduct of the Maharajah after the attempt to poison the Resident was discovered was sensational in the extreme. When Rowjee had been liberated after his first arrest we are told that the Maharajah said to the Punt, "The man with the proof has been released and now there is no need of apprehension." When, however, Rowjee was again taken to the Residency, and after he had confessed the Maharajah sent for Yeshwantrao, Salim and Damodhur and implored them if an enquiry should take place, to confess nothing at all. One of the three—the witness now before the Court—has paid no regard to that request, and if his story be true, it will be interesting to notice what will be the conduct of the partners in his guilt. Sixteen days imprisonment was sufficient to subdue the spirit of the Punt, and his confession, it is stated, is as full as it possibly could be.

The evidence which the witness gave yesterday afternoon was of a kind different to any that has yet been placed before the Commission. Damodhur explained the method of keeping the accounts in his department, and he says that several items for fruit, fireworks and other goods are entirely fictitious, as the money so entered was really disbursed by Salim and Yeshwantrao as rewards to the servants of the Residency for bringing gossip to the Gaekwar a sample of information so brought being given by Damodhur in the shape of a report of the complaint of Jummabai, the widow of Khundersao, to the Resident, which Rowjee had brought for His Highness's perusal, and a copy of which was made in the presence of the Maharajah by Damodhur Punt himself. Sergeant Ballantine intimated yesterday he could account for the entries upon which so much stress is laid. The case will doubtless be fought foot by foot, and the evidence of this important witness, which was heard with such marked eagerness yesterday, will be listened to with the same attention to day.

DAMODHUR PUNT'S EXAMINATION

At the sitting of the Court the first witness called was Damodhur Trimbrick. Examined by the Advocate General, he said My name is Damodhur Trimbrick or Damodhur Punt.

Sergeant Ballantine Tell the witness to speak out that His Highness may hear him.

The witness I am a Brahmin by caste. I was in the service of H H the Gaekwar as Private Secretary. I became Private Secretary 3 or 3½ years ago. I had to pay the wages of sepoys, and to pay the allowances or wages to *kubins* or persons who make displays, and also to persons employed in the shikar department and such other work. Sums of money used to be drawn from the shroff for private expenses and I paid these expenses according to His Highness's direction.

The Advocate General (to the interpreter) He used the word *khangee* did he not?

The interpreter Yes, which means private.

The witness I lived outside the Lerespool gate in Baroda, and my duties were carried on at the *khangee* butchery or private court. In the *khangee* kutcherry there were some 25 clerks. Mahdooraoo Ramchirna was the head clerk. There was a clerk called Nanajee Vittu! He used to be in a place called the jewrkhana or jewel department. I also knew a clerk called

Bulwuntrao Rowjee. He was in the cash department. He was employed in the *khangee* or private department under me. Nanajee was in a separate department, but his dealings used to be under me. Abajee Ramchunder was also a clerk employed under me. He used to write what it was necessary for him to write. Atmaram Ragonath was another clerk, he was in the jewelry department, but received his salary from me, from the private department. I was in the habit of attending the palace from 7.0 a m to 10.0 p m every day. I used to go home at noon for dinner. I knew the rooms in the palace which were ordinarily occupied by His Highness Mulharao. He used to live on the fourth storey from the ground flour. Access was obtained to these rooms from the outside by those who had business, that is the Durbar people, and the Court people by the gadee, which was on the first storey above the *khangee* kutcherry, the private kutcherry.

Sergeant Ballantine Will you, my Lord, ask this witness to look towards the Gaekwar, and speak so that the Gaekwar can hear him. I can hardly hear him myself, and I am sure His Highness cannot hear him.

The witness was instructed as requested, and the examination continued. From the outside people went to the room where the gadee was by the entrance called the Mugassnass entrance, which leads directly to the gadee from the public road. There was another entrance by which persons might visit the Maha rajah. It was an entrance from the Nuzzur Baug, and there is another entrance by the Kuttiara gate. The most direct road from the outside to the Maharajah's apartment is from Nuzzur Baug. I know Yeshwantrao. He was in the service of the Maharajah. He was employed as a jasood or messenger. I also knew Salim. He was also in the service of the Maharajah as sowar. I have seen both Yeshwantrao and Salim in attendance upon the Maharajah. They used not to be with the Maharajah night and day but came now and then as they were required. I remember being directed by the Maharajah to give arsenic to Salim. It was about the time of Bhadurpud vad I think. I do not remember exactly.

The interpreter That is from the 26th September till the 10th October, the latter half of the month.

The witness The Maharajah said 'Get two tolas of somal (arsenic) for itch, and he directed me to write a note to the Fouzdar department. I wrote the note (A letter is shown to witness). This is the note, it bears my signature. There is an endorsement on it by Gunputrao Bulwunt the son of the Fouzdar. I have not seen his handwriting, but I speak from what purpose to be his signature.'

The Advocate General then read the part of the document signed by the witness, which was as follows —

To Ryeshti officer in charge Hajoot Fouzdarree

After compliments Further for medicine to a horse two tolas is required therefore please send hither a permit for the same Dated Bhadurpud vad 9th Samvat year 1431 (4th October 1874)

DAMODHUR TRIMBRK,

Khasgi Vala

The witness The date is the 9th Badurpud vad. That is the date on which I wrote it. (4th October)

The Maharajah told me to write that the medicine was wanted for a horse. I did not get any arsenic from the foudaree. I then directed that some arsenic should be brought from Nurrotum Borah. Before I did this I had some conversation with the Maharajah. I spoke to the Maharajah in consequence of a message I received. I said to the Maharajah "Hormusjee Wadia says he will give it after asking you." Hormusjee Wadia was the Foudar. The Maharajah said "Send for it from the camp." I said "A pass is necessary in order that it may be procured from the camp." The Maharajah said "Try and get it somehow or other from Nurroodeen Borah," the man who was formerly connected with the silkhana or arsenal. That is the repository for medicines.

The President : What we understand by dispensary, I suppose ?

The interpreter : That is it.

The witness : The dispensary is now at the place called the silkhana. This silkhana, or dispensary, was upstairs close to where the Maharajah sleeps. I mean of course in the palace. The Maharajah also said "get a tola of diamonds." That was subsequently, on another occasion. On the first interview of which I have spoken he told me to get some arsenic from Nurroodeen Borah, and I ordered Nurroodeen to bring two tolas. I saw Nurroodeen. He had been sent for to the Warra, that is the havaalee. I saw him there and ordered him to send two tolas of arsenic, and he brought it and gave it to me. I do not remember whether it was upon the day he was told to bring it, or upon the next day. When Nurroodeen brought the arsenic, it was in the form of a packet. I did not open the packet to see what was in it. When I received it I asked the Maharajah what I should do with it. The Maharajah said : "Give it to Salim he will convert it into medicine for itch." I gave it to Salim. It would be about two or four days after I wrote the order on the Fouzdar, that I gave the packet to Salim, as well as I can remember. After I had got this arsenic and given it to Salim I was directed by the Maharajah to get one tola diamonds. I do not remember when I received the order to do this, but it would be about eight days after I got the arsenic. When the Maharajah ordered me to get a tola of diamonds he told me to give them to Yeshwantrao. I got the diamonds from Nanajee Vitthal, who is employed in the jewel department. I did not open the packet to see what sort of diamonds they were. After asking the Maharajah I gave the packet to Yeshwantrao. When I asked the Maharajah he said "Give it to Yeshwantrao." I gave it to Yeshwantrao. After that I received further orders from the Maharajah on one occasion. This was, I think, about eight days after I got the order about the diamonds. The Maharajah used to give me these orders every four or eight days. A small bottle had been received from the hakim (doctor) and sent to me by the hands of Goojaba, and the Maharajah told me to give it to Salim. Goojaba is a servant of Nana Sahib Kanwelkur. Nana Sahib Kanwelkur is the Maharajah's pritiniidhi. He is also the Maharajah's brother-in-law. The bottle was brought at night and I did not examine it. The light was far off.

Mr. Branson : I think he said "did not see."

The interpreter : He used the word, but from the way he used it I think he means "examine."

Mr. Melvill : What is the meaning of "pritiniidhi?"

The interpreter : It means minister.

Mr. Melvill : And he used the word brother-in-law also ?

The interpreter : Yes.

Mr. Melvill : He means he was his brother-in-law and hereditary minister.

The interpreter : Yes.

The President : He did not use the word "hereditary."

The interpreter : No.

Witness continued : It was about this length (showing from the tip of his finger to the palm of his hand). There was something in this bottle. It contained some medicine. The Maharajah asked me to pour the medicine into another vial or bottle, which I did. It was a bottle which had contained otto of roses, and which was in my possession. It was a small bottle of this size (pointing to the second joint of his forefinger). Goojaba poured the medicine into the small bottle. I kept the bottle in my place. I mean the small bottle in which the medicine had been poured. The next day I gave it to Salim. I did so by the instructions of the Maharajah. I had seen him in relation to this bottle in the morning when I accompanied the Maharajah to the havaalee. I went in a buggy with the Maharajah. It was an ordinary buggy, a four-wheeled one. I was with the Maharajah in the same carriage. I asked him "What should I do with that bottle?" He said to me "Give it to Salim." I do not remember where this was. I cannot say. I cannot fix the date by any native festival any nearer than by saying it was about the time of the Dussera—the last Dussera. (Mr. Branson : That is the 20th October.) I gave the bottle to Salim on the next day at half-past ten or eleven o'clock in the morning. Besides this I was directed on another occasion to get some arsenic. The Maharajah directed me. He said "Get two tolas of arsenic." He also said "Get one tola of diamonds." This was not at the same time. I got two tolas of arsenic from Nurroodeen Borah, I saw Nurroodeen myself about it. It was he who brought and gave it to me. He said it was arsenic ; I did not see it. After having asked instructions from the Maharajah I gave the arsenic to Salim. I was again directed to get another tola of diamonds by the Maharajah. When he gave me the directions he said "Get a tola of diamonds from the jewel room." I do not remember whether this was before or after I got my second order for arsenic from the Maharajah. I got the diamonds. Nanajee Vitthal brought and gave them to me. I did not open the packet, but the packet contained three masses of diamond powder, and nine masses of diamonds. I know this from what Nanajee told me. I asked the Maharajah what should be done with them. The Maharajah said "Give them to Eshwunt." That is Yeshwantrao. The Maharajah said "These diamonds are for the purpose of making a crown for the Swami of Akulkote."

The interpreter : Swami, my Lord, means high priest.

The witness I gave these diamonds to Yeshwantrao. When I gave Yeshwantrao this packet I had some conversation with him. I gave him the diamonds at the kangee kutchery, outside the walls. I asked him "what are you going to do with the diamonds?" He said "They are to be ground and made into powder and given to Colonel Phayre" I said "This is not good, this is bad." I do not remember saying anything more on this occasion I remember a report that an attempt had been made to poison Colonel Phayre. It was on Monday, the 1st Ashween sud (26th October). I heard the report on Monday. I gave the diamonds to Yeshwantrao five or seven days before I heard the report. The day on which this report was heard the Maharajah had come to the camp, and he told me about it. I went with the Maharajah's procession and got down at the Shevak's dhurumsala. The Maharajah was going to the camp to the Resident. The Shevak's dhurumsala is at the roadside coming from the city to the camp. It is under a banyan tree, outside the camp limits. I accompanied the Maharajah from the palace. It was 8 o'clock in the morning. I got down at the dhurumsala because the Maharajah did not take me to the Residency. After I got down from the carriage at the dhurumsala I did nothing. I remained sitting until the procession came back. When the procession arrived where I was the Maharajah took me in his own carriage and put me down at my own house, when I went in to get my meals. As I was driving back with the Maharajah he said, "There is a noise or report at the Residency," I asked "Why, what for?" The Maharajah thereupon said "Nursoo was in the habit of coming every day. He did not come to day, and Rowjee made haste and put it" I said "What was the cause of the haste?" The Maharajah said "Nursoo was in the habit of sitting outside and whistled when any one came. Nursoo was not outside on guard for the purpose of whistling. That is the cause of the noise."

The President? The same word as you said before "noise or report"

The interpreter Yes, my Lord, the same word.

Witness continued I had some further conversation with the Maharajah. He said "Salim ran to Rowjee's house. He went there for the purpose of taking the packets and throwing them where the old woman was sitting making bread. Rowjee sent to his own house because he was not quite sure that Salim would or would not throw away the packets"

The Advocate General (to the interpreter) Is the word packet the same as would do for powder?

The interpreter It would do for both. I have translated it packet throughout.

Witness continued : The Maharajah also said "I do not know whether he threw away the packets or not." The Maharajah added "This is a bad affair." I do not remember his saying anything else. I left the Maharajah near my own house Before this drive with the Maharajah I very likely had some conversation with him about this business. I do not remember now. I saw the Maharajah again that Monday. After taking my meal I went to the havelie at eleven o'clock. When I went there I saw

the Maharajah. He was sitting on Luxmeebai's bench, and speaking to Khanwelkur. They were speaking about the noise regarding the poisoning. I did not hear what was said I was at a distance of five or seven cubits. I took no part in the conversation. I saw the Maharajah again at noon He was sitting on Luxmeebai's bench. This is the occasion I have just been speaking about. Then the Maharajah and Nana Sahib and I left and went in a carriage to the race-course While we were in the carriage the Maharajah said "You should keep yourself well informed regarding any enquiry that may take place in this matter." He said so addressing me and Nana Sahib both. He said this regarding the poisoning. He said also that on receiving the particulars we should communicate them to him. I made enquiries that night of several people I communicated to the Maharajah what I learned on the next day. When I told the Maharajah what I had heard no one was present. I said Rowjee had not been found, I mean he had not been arrested. The Maharajah said "He is a very clever man and a liar." He said nothing else. On the Tuesday following the Monday I saw Salim and Yeshwantrao. I saw them at the havelie. I saw them in the presence of the Maharajah. The Maharajah desired them to make enquiries and obtain information about this matter the case of poison. After this Tuesday I very likely had some conversations with the Maharajah about this matter. I do not remember just now. I remember the Maharajah coming to the Residency on the Thursday following. I got down at the Shevak's dhurumsala I generally accompanied the Maharajah on his visits to the Residency as far as the Shevak's dhurumsala. While Colonel Phayre was Resident I never went into the Residency with the Maharajah. I remember Sir Lewis Pelly coming in the place of Colonel Phayre. I did not accompany His Highness on the first occasion he visited Sir Lewis Pelly On one occasion when His Highness visited Sir Lewis Pelly I did accompany him. I saw Sir Lewis Pelly That was because the Maharajah went to the Residency and I was taken by him to give evidence regarding some conversation which he had had with Narayan Kanji Pandray. I was introduced by the Maharajah to Sir Lewis Pelly. When the Maharajah came he had some conversation with Sir Lewis Pelly, and just as he was leaving he introduced me near the door I do not remember having any conversation on this occasion with Sir Lewis Pelly about the poison. I did not see Rowjee at all, with the exception of one occasion, and that was at Nowsaree I remember Mr. Souter coming to Baroda I heard of his coming After he came I had some conversation with the Maharajah about this poisoning. Rowjee had been arrested at first and afterwards, he was released Thereupon the Maharajah said, "The man with the proof has been released and now there is no apprehension."

The Advocate General (to interpreter) What is the word you translate proof.

The interpreter Mondnah.

I do not remember on what occasion this was. It was after Mr. Souter came. I remember hearing of Rowjee being arrested. I said that when Rowjee had been taken up again he had acknowledged or made a con-

fession. I said that to the Maharajah. The Maharajah said "I too have heard so" After Rowjee had made his statement he got a certificate of pardon. I had some conversation with the Maharajah in regard to that. He spoke to me. He said "If any enquiry takes place here, do not acknowledge anything or confess anything" He also said, speaking to Nana Sahib, Yeshwantrao, and Salim, "None of you should acknowledge or confess anything" I do not remember that anything else was said on that occasion, unless I am specially asked I remember Salim and Yeshwantrao being arrested. It was on the 14th or 15th Margashirsh sud (Interpreter referring to TIMES OF INDIA Calendar said These days correspond to 22nd or 23rd December) Before they were arrested the Resident had sent a note directing that they might be sent there, meaning the Residency. I saw the Maharajah in reference to that note asking that Yeshwantrao and Salim should be sent to the Residency. The Maharajah said that he had sent Yeshwantrao and Salim to the Residency. I do not remember on what particular occasion this was told to me, but it was the same day on which they were sent, in the evening. He did not then tell me they had been sent for to the Residency, but he did afterwards. He said "I have cautioned those two persons not to acknowledge or confess anything" He did not say anything more. On that occasion Salim and Yeshwantrao went to the Residency and then they returned. They were afterwards sent for again by the Resident, Sir Lewis Pelly. It was the same day on which they had been and returned I saw them before they went the second time to the Residency. I saw them at the havalee, upstairs. I heard Nana Sahib Kanwelkar, who met me, say—

Mr Branson No, we cannot have what he said. The Advocate General Was anybody else present?

Witness continued Nana Sahib Kanwelkar was not present, but he told me something. After Yeshwantrao and Salim had gone again to the Residency I again saw the Maharajah in the evening. He said "I have cautioned these two persons not to acknowledge or confess anything" I do not remember that he said anything further to me. On the next day I cannot call to mind what he said unless you ask me a specific question. I was arrested on the same day that the Maharajah was taken up. I was taken up in the evening, and I do not remember on what day it was. On the day on which the Msharajah was arrested I went to the havalee. At 9 o'clock an attachment came. I mean an attachment on the palace. All the rooms were sealed up, and a guard placed over the palace. I was arrested about eight or nine o'clock in the morning. Jackson sahib and Gajanand Vitthal came to me and said to me, "You should be present at your post, your papers and money and all other things are to be sealed up" I was present when seals were placed on my papers and other things in the palace. After the seal had been placed I went home and was immediately sent for again. I was then confined in the Senaputtee's kutcherry. It is in the havalee.

The Advocate General (to interpreter) Is not the Senaputtee the Commander-in-Chief?

The interpreter Yea.

Witness continued I was kept there for two days, under the guard of sepoyas. It was not a military

guard, it was a guard of sepoyas, watchmen. From the Senaputtee's kutcherry I was brought to the camp to the Residency. I was brought by the sepoyas of the Fouzdar of Baroda. I was detained at the Residency and placed under a guard of European soldiers. For sixteen days I was under the guard of European soldiers, since then I have been under the guard of policemen. I was transferred from the European guard to the police guard because I had made a confession. Up to the time of making my confession I was under the guard of European soldiers. Since that time I have been under the guard of the police. I made my confession because I was tired of being kept under a European soldiers' guard. First of all one day I was sent for to a tent in the garden of the Residency in the rear. I there saw the two Khan Bahadoors, and Bulwuntrao's secretary was there. He was a karkoon who had been sent from Ahmedabad, and a man named Bhow Kebba was there. He is a karkoon employed in connection with the case. There was also a policeman there. Khan Bahadur said, "I want to examine the papers in your box." He had sent for me in order that I might be present at the opening of the seals. The box contained the Maharajah's khangi or private papers. It had been sealed up in my presence at the palace. It was produced to me in the tent on the occasion of which I am now speaking. There were large seals made with sealing wax, and they were perfect, not broken. The boxes were opened in my presence. Bulwuntrao Kelwantree, or Private Secretary, and Bhow Kebba began to examine the papers, also the two Khan Bahadoors. They remained examining the papers about half an hour. I did not say anything to the police on this occasion, but the police said something to me. They said, "It will be well if you tell what is the truth?" They said nothing else to me on this occasion. From the tent I was sent back to the European soldiers' guard.

The Advocate General I do not know, my Lord, whether it will be convenient to the Commission to break off here. I understand it is past two o'clock.

The Court then adjourned for tiffin.

When the Court resumed its sitting, the interpreter said that the native holiday the witness had mentioned, the Makar Sunkrant, corresponded to the 13th of January

The examination of the witness was then continued as follows—

The Advocate General You told us before we rose about your going to the tent when your box of papers was examined. On that occasion was anything said to you about what other people had said about this matter?—Yes, the Khan Bahadur told me.

What did he say?

Sergeant Ballantine I object to that.

The Advocate General If my learned friend objects, I do not wish to put the question.

Examination continued I made my statement two days after this examination of the papers in the tent. When I made my statement there were present Mr. Richey, Sir Lewis Pelly, Captain Jackson, Captain Seagrave, two Khan Bahadoors, Gajanand Vitthal and Bulwuntrao, Secretary. When I made my state-

ment I had been promised a pardon by Sir Lewis Pelly. No one had then told me what Nursoo Jemendar or Rowjee havildar had said I was under a guard of soldiers, who could communicate with me? No one communicated with me. On the day I got a certificate Gajanund Vitul and the two Khan Bahadoors were present, and Gajanund said, 'If you tell the truth the Sircar will give you a pardon and he showed me the law.'

Mr. Melville He said "chopree," that means a paper.

The interpreter I think it means a book.

The witness continued That was all that was said to me When I saw Rowjee at Nowsaree it was when the Maharajah was there I saw Rowjee at the Mahrajah's bathing place, where he used to bathe. The Maharajah Rowjee and Salim were sitting there It was ten or eleven o'clock at night I had been sent for from my lodgings. The Maharajah, on my coming showed a paper to me and said 'read this' It was Jummabai's complaint to the Governor sahib That is Jummabai the widow of Khunderao Maharajah I read it and took a copy of it and then the paper was given back to Rowjee Rowjee took it back with him I copied the paper by the Mahrajah's direction I was in the habit of reading papers to the Maharajah I read dulshane (Maharathi) papers They were yadee or papers received from persons in the private department In the khanqai (private) department the accounts were kept on separate pieces of paper not in books I was in the habit of taking a yad (receipt) from the person to whom the Manarajah directed me to make a payment (The interpreter That is a receipt or memorandum) I used to make an endorsement to the yad in my handwriting Before the receipt was taken I made the endorsement The Maharajah's sanction was obtained before I made a payment.

The President Will you ask him how he got sanction? I do not think it is very clear

The witness I got verbal sanction from the Maharajah (A paper is shown to witness) This is one of the yads of which I have spoken

The Advocate General read a translation of the yad, which was as follows —

SHERI (ie PROSPERITY, &c)

Brought to account on the 3rd lunar day, the month Shaival, that is in the month of Margshirsh, the Sumvat (year) 1930 (24th November 1873)

MEMORANDUM —From Bombay goods were caused to be brought to the Khasay through Yeshwanta, the son of Mahipati Yevlay, the Sirkar's courier For payment of the money for the same the Sircar's permission was granted In accordance therewith what was paid in ready cash (was as follows) — The boor San (year) one thousand two hundred and seventy four (the Mahomedan) lunar day the 3d that is the (Hindoo) lunar date the 4th (conjoined) with the 5th of Margshirsh Shoodhya, the Sumvat (year) 1930 (24th November 1873) Monday

Machine made (rupees) were purchased in the Bazaar at the place of business of Parakh Govardhan Dulput and were delivered. For the same the Babashai (rupees) together with (the amount of) exchange

that were paid to Parakh (were as below mentioned).	
Principal Surat (rupees) 1,000 0 0	
For exchange at the rate	
of ₹18½ per cent 187 8 0	
In all ₹1,187 8 0 ₹1,187 8 0	
Babashai [rupees] paid out of the Treasury	2,000 0 0
	₹3,187 8 0

In accordance with the above memorandum, the Sircar's permission was granted for the payment of rupees three thousand one hundred and eighty seven and a half The lunar date the 5th of Margshirsh Shoodhya, the Sumvat (year) 1930 (25th November 1873)

Payment Nayak Asantrao Aylia Rs 1,000 of the Bom-Bombay currency, Babashai Rs 2,000 in all three thousand have been received in full by the hands of Parakh Javer Lakhmidas, who received (the same and) went away

Sergeant Ballantine I understand that these are put forward as being evidence of certain payments made to servants at the Residency for certain purposes I do not understand how this can be made evidence at all unless my learned friend can carry it further than that

The President It has been read

Sergeant Ballantine There are several documents, I have not objected to this particular one, but I ask now how my learned friend intends to use it

The President He has put this in to show what was the ordinary course of business in which these payments were made

Sergeant Ballantine And this document has gone in and there is an end of it but when other documents are put in I ask my learned friend how he connects them with any of the charges in the case,

The Advocate General I propose to use them in this way I am going to show that large sums of money were from time to time paid to Yeshwantrao and Salim that these sums were put down as paid for certain purposes although they were not applied to those purposes and that these payments were made at the time when payments are said to have been made to the Residency servants

Sergeant Ballantine It is a very general proposition I do not know exactly the sums of money to which my learned friend refers I know of no particular sums of money

The President The Advocate General proposes to show that large sums of money that were paid were entered to certain persons He may prove these facts, I think They are facts connected with the Maharajah.

The yad was then put in and marked A 1

The witness continued First of all there is a statement of the amount of money and the person to whom it is to be paid Then my endorsement followed (shows the endorsement)

The Advocate General The endorsement begins with the words "In accordance with the above memorandum"

The witness The third part is the receipt There was a daily, a monthly and a yearly account prepared from these yads The daily account was made on a loose piece of paper, and showed the

amount credited and the amount disbursed during the day. The monthly account was kept on several sheets of paper stuck together. The yearly account was also written on loose sheets of paper which were stuck together. Bulwuntrao, karkoon, kept the daily journal. I did not keep the three books merchants usually keep. I merely put my endorsement, the rest was done by Bulwuntrao. I do not know what Yeshwantrao's pay was. He was not paid in my department, but in the Fudnis department. Salim was not paid in my department. I made payments to Yeshwantrao and Salim out of my department. The *yad* I have just seen is one of those payments.

The Advocate General. If you look at that document you will see it relates to goods brought from Bombay. Do you know what goods these were?—No goods were received.

How came it to be entered that goods were caused to be brought?—Because these payments were to be made to persons here they were so entered.

What do you mean by "payments were to be made to persons here"?—Servants employed at the Residency.

How do you know that?—If the payments were for goods the Maharajah used to direct that they should be so entered, but if the payments were for such persons then the Maharajah directed the entry to be made in that manner.

In what way were payments made for goods entered?—They were written in the way that these are, but the merchant's name was mentioned, and a memorandum of the goods received from the merchant was also entered.

Now look at this paper (hands paper to witness), is that another *yad* from your khangree records, and does it bear your endorsement?—Yes.

And is it for the payment of money to Yeshwant?—Yes,

For how much is it?—For ₹18-14.

Now, I see this stated to be that goods might be purchased and brought from Ahmedabad. Is that the same sort of *yad* as the one you have just seen?—Yes.

And there are no particulars of the goods and no name of the merchant?—No, nothing of the kind.

The *yad* was then put in and marked B1. It was as follows:—

SHRI (i.e., PROSPERITY, &c.)

Brought to account on the 8th lunar day the month of Shaival, that is in the month of Margashirsh the Sumvat (year) 1930, November 1873.

MEMORANDUM.—In order that goods might be purchased and brought from Ahmedabad the Sircar's permission was granted for the payment of money for "J. F." (his) expenses to Yeshwant, son of Mahipak Yevlay, the Sircar's courier. In accordance therewith what was paid in ready cash (was as follows). The Soor San (year) one thousand two hundred and seventy five (the Mohammedan) lunar day the 8th that is the (Hindoo) lunar date the 10th of Margashirsh Shrood or the Sumvat (year) 1930 (29th November 1873) Saturday.

Machine made (rupees) were purchased at the place of business of Parakh Govardhan Dulput in the Bazaar

and delivered for the same Babashai (Rupees) were paid to Parakh (as below)—

Principal Surat (Rupees) by the hands of Govpitral corrected to Narayenrao son of Bhickaba Selkay attached of the small Khas Paga	₹10 0 0
For exchange at the rate of ₹18-14 per cent	1 14 0
Babashai (rupees) paid in ready cash	11' 14 0
	7 0 0
	₹18 14 0

In accordance with the above memorandum the Sircar's permission was granted for the payment of rupees eighteen and fourteen annas to Narayenrao Shelkay Bargir of the small Khas Paga. The lunar date the 10th of Margashirsh Shrood or the Sumvat (year) 1930 (29th November 1873).

In respect of the above memorandum machine made rupees 10 ten and Babashai rupees 7 seven were received in ready cash in full out of the Treasury. By the hands of Narayenrao Selkay the said (rupees) were received in full from Yeshwantrao Yevlay. The handwriting of Krishnaji Ramchundra Kelkar.

Does that bear your endorsement?—Yes.

And who received the money?—Salim Arab received it.

Were any goods brought from Ahmedabad?—No.

Examination continued. (Another paper is shown to witness.) This is also a *yad* from my khangree records and bears my endorsement. It is for Rs. 300 for goods brought from Ahmedabad by means of Yeshwantrao. Salim received the money.

SHRI (i.e., PROSPERITY, &c.)

Brought to account on the 15th lunar day the month of Shaival, that is in the month of Margashirsh, of the Sumvat (year) 1930 (6th December 1873).

MEMORANDUM.—Goods were caused to be brought from Ahmedabad by means of Yeshwanta, son of Mahipak Yevlay, a courier in the service of the Khansay. The Sircar's permission was granted for the payment to him of machine made money for the same. In accordance therewith Surat money was to be paid. The same was purchased in the Bazaar at the place of business of Parakh Govurdhan Dulput, and was delivered. In respect thereof the Babashai [rupees] were to be paid in ready cash. The 15th lunar day the month of Shaival in the Soor San [year] one thousand two hundred and seventy-four. That is the lunar date the 2nd of the month of Margashirsh Vadya of Sumvat 1930 (6th December 1873) Saturday.

(Principal Surat rupees) by the hands of Salim, son of Ali Arab, a sepaht in the service of the large Khas Paga employed in the message bearing business of the camp. Through Yeshwant Yevlay, a courier	₹200
For exchange at the rate of ₹19 per cent	38

₹238

In accordance with the above memorandum the Sircar's permission was granted for the payment of rupees two hundred and thirty-eight. The lunar date

the 2nd of Margashirah Vadya of the Sumvat (year) 1930 (6th December 1873).

The same machine made rupees two hundred agreeably to the memorandum were received in cash in full out of the khangi (private) treasury. By the hands of Salim, the son of Ali Arab. The handwriting of Balckrshna Hari Kodilkar. At the said Salim's request (this) is given in writing.

Witness : We did not get any goods in relation to Rs 300. The *yad* produced (marked D 1) is another from my duster and bears my endorsement.

Yad put in as follows :—

SHRI (i.e., PROSPERITY, &c.)

Brought to account on the 22nd lunar day the month of Shaival, that is in the month of Margashirah of the Sumvat (year) 1930 (13th December 1873).

MEMORANDUM.—Goods were caused to be brought from Ahmedabad by means of Yeshwantrao, son of Mahipati Yevlaiy, a courier in the service of the Khassay. The Sircar's permission was granted for the payment of money for the same. In accordance therewith what was paid in ready cash (was as follows) :—The 22nd lunar day of the month of Shaival the Soor Sun [year] one thousand two hundred and seventy-four, that is the (Hindoo) lunar date the 9th of the month of Margashirah Vadya of the Sumvat (year) 1930 (13th December 1873) Saturday. Rs. 300.

In accordance with the above memorandum the Sircar's permission was granted for the payment of rupees three hundred. The lower date the 10th of Margashirah Vadya of the Sumvat (year) 1930 (14th December 1873).

Bábásháí rupees three hundred (in respect) of the above memorandum were received in full out of the Khangi Treasury. By the hands of Salim, the son of Ali Arab, in the service of the large Khás Págá. The handwriting of Balckrshna Haré Kodilkár. At the request of the owner of the goods (this) is given in writing.

The Advocate General : I think, my Lord, we can abridge all this by having the *yads* put in, and sworn to by the witness.

Serjeant Ballantine : I think so too, my Lord. We have in reality copies of these *yads*, and we can account for them. Your Lordship has already ruled that they are admissible, and I do not intend again to raise the point. I have made an account of them.

(Several *yads* were here put in, and marked from E 1. to Q 1.)

Witness : I see all the *yads* produced. They are all from my private duster, and bear my endorsement.

The Advocate General : E 1 bears date 16th January 1874 and is for Rs 600, for goods brought from Bombay by Yeshwantrao. Payment made to Salim.

The President : Mr. Jardine will have to take all this down.

Serjeant Ballantine : We have got the sum total of the whole. It is about Rs 7,000. This is but a sample; and it is a fair sample of the whole. A few are really for goods, and I will call attention to them all hereafter at the proper time.

The President : Then perhaps it will be enough if you furnish Mr. Jardine with the particulars.

The Advocate General suggested that the shortest method would be to give a summary as he put them

in. He therefore did so as follows :—F 1 is dated 9th February 1874, and is for Rs. 237-8, to Yeshwantrao for goods from Bombay. Payment made to Salim and Mahadowrao Kalley. G 1, 15th December 1873, for Rs. 100, to Salim for expenses for bringing goods from Ahmedabad. The receipt is by Salim.

Mr. Jardine : The *yad* is dated 15th November. You read the 15th December.

The Advocate General : I know, I am giving the date of the receipts, the day the money was paid. H 1, 24th December 1873, for Rs. 356-4 paid to Salim for fireworks and other things brought from Bombay for Salim. Paid to Salim. I 1, 25th January 1874, for Rs. 475 to Salim for bringing goods from Bombay. Paid to Salim. J 1, 15th March 1874, for Rs. 50 to Salim for expenses of going to Ahmedabad. K 1, 24th April 1874, for Rs. 207. Paid to Salim for purchases of fruit. L 1, 21st April 1874, for Rs. 1,000 paid to Salim for purchases of fruit at Nowsaree. I should also say that the previous *yad* was for fruit purchased at Nowsaree.

Mr. Melvill : Which is the first one for Nowsaree?

The Advocate General : K 1, M 1, 15th May 1874, also at Nowsaree, for Rs. 200 to Salim for bringing goods from Bombay. N 1, 8th June 1874, for Rs. 1,000 paid to Salim for fruit brought from Bombay. O 1, 2nd July 1874, for Rs. 250 paid to Salim for fruit from Poona; order for payment 3rd July. P 1, 2nd September 1874, brought to account 8th September, for Rs. 119-8 to Salim for fruit from Ahmedabad. Q 1, 18th October 1874, for Rs. 200 to Salim for fruit from Ahmedabad. (To witness) : One of these *yads* relates to fireworks brought from Bombay by Salim. Were any brought?—No. On one occasion some fireworks were brought by Yeshwantrao.

On what occasion?—It was in the last Ashwunt or Kartik.

The Advocate General : That would be October or November. Were any brought in the month of Posh Sud 1930?—No.

There are other *yads* for money paid to Salim for fruits from Ahmedabad, Poona, and other places. Now was any fruit brought from Poona, Ahmedabad, Bombay or any other places?—None were received.

Is there a separate account kept for fruit, fireworks, &c.?—The persons who used to bring fruit or fireworks for the Maharajah were other persons to those mentioned in the *yads*.

Very well; but that was no answer to my question. Was there an account kept for fruit, another for fireworks, and so on? That is what I want to know?—Yes, there is an account kept, and goods must be credited to these various departments to which they belong.

Well, was there one person who had the management of fireworks, another who had the management of fruit and so on?—Yes, the fruit was paid for in the Sili-khana or the khangi or private department.

By whose instructions were these entries made in the books, of fruits, fireworks, &c.?—By the Maharajah's orders.

The Advocate General : It is now, my Lord, past four o'clock; if your Lordship wishes to go on, I have a good deal more to ask this man yet.

The President : We had better leave off now then. The Court accordingly adjourned.

TWELFTH DAY

BARODA, MARCH 10

ESTERDAY forenoon, at eleven o'clock, the Commission resumed its sitting. All the Commissioners were present, as was also His Highness Mulharji. In the afternoon, however, the Maharajah Scindiah was absent. Sir Lewis Pelly was absent the whole of the day.

In consequence of a different arrangement in regard to the admission of the public, the Court was not crowded at so early an hour as on the previous day. Immediately, however, the doors were opened there was a rush to the seats and the room was speedily filled. As soon as the Commissioners had taken their seats Damodhur Punt was again put into the witness box. His demeanour was much the same as that which characterised him on Monday. He never once allowed his eye to meet the Maharajah's face, and he gave the replies to the question asked him with the same doggedness and levity as when he was first placed in the box, although in reply to some of Sergeant Ballantine's questions he made a few ineffectual attempts to be sly. He was again examined on various items in the accounts relating to his department. Money entered as though spent for rations to the Brahmins he said had really been paid in bibles to the Residency servants, and both entries said by him to be false were similarly accounted for. He was also shown various entries which had been obliterated. This course he maintained had been done by order of the Maharajah to hide the true nature of their removal to money which had been given to Salim and Yesawant to use for unlawful purposes.

He also gave one new and startling information in regard to the box which panel Colonel Phayre's head in September last. The Punt says he heard Salim tell the Maharajah that how he had put a pinch of arsenic into the plaster before he applied it to the Colonel's head. He further stated that he knew Rowerjee was in the habit of sending letters through Salim to the Maharajah giving information as to what was going on at the Residency, as he himself used to read the letters to the Gaekwar.

In cross-examination by Sergeant Ballantine the Punt was closely pressed with a view of showing that in the falsifying and obliteration of accounts he had in view the object of clearing himself and accusing the Maharajah, but all that was elicited on this head was that he had no specific or written order from the Gaekwar to do what he had done, but simply a verbal and general one giving the witness the widest discretion in the matter. The Punt also acknowledged to having heard a good deal about Nursoos and Rowerjee's confessions before he made his own, and he added that he would not himself have confessed at all if he had not believed that unless he did so he should never get out of jail. He could not fix any of the dates upon which attempts were made to poison Colonel Phayre, but they were all made, he said, between the 11th October and 9th January. He stated, however, that he believed the attempt by the mixture of large ants, serpents and something else was the first in point of time.

The next witness Hemchund Futechund surprised everybody. He is a jeweller and is one of the men of the Damodhur Punt who supplied him with the

diamonds about which so much has been heard. Hemchund's books were seized in consequence of the Punt's confession and entries of the sales discovered in their proper places. The jeweller himself also made a statement confirmatory of the portion of Damodhur's confession which referred to the transaction with him. Yesterday, however, he denied the whole affair. He not only said that the statement was entirely false, but he denied having made any such statement at all, adding that Mr Souter wrote down whatever he pleased. The entries in the books he explained by saying that one morning one of the police, Gujanand Vitul, came to him and forced him to make the entries, that in the afternoon his books were seized and in the evening he was taken to Mr Souter to make his statement. It is worth noticing that this witness is one of the few who have not been in the charge of the police. He has been residing at his own house. Of course the full merits of his statement ought not to be judged upon until he has been subjected to the cross examination which will take place today. It does seem, however, as though he has proved too little to be of any service to the prosecution, and too much to be of any assistance to the defence. It is expected that the case for the prosecution will be concluded to-morrow.

DAMODHUR PUNT'S EXAMINATION—Continued.

At the sitting of the Court Damodhur Punt was called and his examination continued by the Advocate General as follows—

Advocate-General You told me yesterday about getting diamonds on two occasions from Nanjee Vitul who arranged for paying for these diamonds? The witness The arrangements were made according to the instructions of the Maharajah. The instructions were communicated to me. I asked the Maharajah if the money for the diamonds should be paid and he said "yes."

Sir Richard Meade Does that mean the value of the diamonds?

The interpreter Yes.

The witness I arranged for the payment. Nanjee Vitul has the lighting department in his charge, and some money had been received from him for "kussa." Mr McEvill That means "savings."

The interpreter Yes.

The witness I mean Nanjee Vitul had those moneys. I had not received them. The amount of money for kussa was credited (Witness is shown *yad*). This is the *yad* from Nanjee Vitul. It bears my endorsement. The money was put down as paid on account of a feast to the Brahmins on account of Swami Narayan (The *yad* was put in and marked R 1). Besides the Rs 1,706 savings on the lighting account, there is another showing money appropriated by the Maharajah for the payment of these diamonds. The *yad* produced is the one to which I refer.

yad put in, read and marked S 1. The two *yads* were as follows—

Memo—The Sirkar (His Highness) has made an order to pay to Rameshwari in cash the expenses for dakhina (distribution of money) and dinner to be given through Rameshwari to two thousand and five hundred Brahmins at the Swami Narayan's Temple. Paid accordingly in cash in Summa Khamas, Babajan

Mayatian and Alif (Mahomedan year), Sumvat (year) 1931, month Jilkad, corresponding to Margshirsh, Chandra 21, this day Vad 8th, Thursday Rs 3,632 13 3 —31st December 1874

(Endorsement)—In accordance with the order to pay Rs 3 6 12 13 3, the Lord (s e Maharajah) wet the coins and paid them while bathing, dated Margshirsh, Vad 8th, and Samvat (year) 1931

Memo from the Kamdar of Roshnai (Superintendent of the Lighting department) to Raymanya Rajshri Sircar Khangi officer (the illustrious Private Secretary) that the discount (bata on Godesa oil) supplied to the Commissariat by Laloo Narrotum at Rs 11 4 0 has been received date for six months, Samvat (year) 1930 from Margshirsh up to Vaishakh

Discount from Laloo Narrotum as per payment note from the Pharnis for rupees eight thousand six hundred and ninety seven, annas twelve, pice nine
For Kasar (correction of account)

Rs 978 8 0

Total 1806 12 3

Altogether Rs 1856 12 3 deducting from this Rs 20 per month for the lantern on the Mandvi Tower total Rs 150 for six months There remain Rs 1706 13 3 Dated Margshirsh Vad 9th Samvat (year) 1931 (sd) NANAJEL VITHAL BEDEKAR

(Endorsement)—His Highness has ordered that the sum of Rs 1706 13 3 be credited as per yad Dated Margshirsh Vad 10th Samvat 1931

The interpreter My Lord, the word 'kussar which the witness used sometimes means excess of profits, and sometimes it means a loss.

Witness continued The yad produced refers to the amount to which I have already referred, viz, to the feast to the Brahmin Swami Narayan

Order put in marked T 1 and read. It was as follows —

Memo from the Javher Jamdar (Superintendent) of the Jewel Department) to the Superintendent of Cash realised by sales, respecting mohurs and puthes (gold coins) part of the nuzarana The cash received is as follows, dated Summa Khamas Sabayin Mayatian and Alif (Mahomedan date) Samvat (year) 1931 —

Twenty mohurs given to Dadabhai Nowrojee the Parsee, at the time of his installation as Devan, for presenting nazaraana at Rs 10 per mohur Dated Bhadrapadum Shud 3rd Rs 300 1 0

To Natvarlal Ranchod Bhattia Choksi Puthes one hundred and seventeen at Rs 13 per puthi Dated Margshirsh shud 6th 1626 1 0

Total 1926 1 0

Altogether Rs 1926 1 to be paid Dated Margshirsh Vad 7th

[Sd] NANAJEL VITHAL BEDEKAR

[Endorsement]—His Highness has issued an order that Rs 1,926 1 be credited in the account of the

Khangi Jamdar [private treasure] Dated Margshirsh Vad 8th Samvat [year] 1931—31st December 1874.

The President What amount?

The Advocate General Rs 5 489 7

The President That includes the two, then.

The Advocate General Yes, my Lord, that includes the two

The witness continued The entry was so written in the yad but the money was paid to the jewellers by Nanajee Vitthal in accordance with the general order of the Maharajah's instructions I have already said that I asked the Maharajah if the money due to the jewellers should be paid, and he said "yes pay them, and it was my business to pay them out of this sum or that sum, the balance This was in reference to the two packets which I mentioned yesterday I entered this as paid to a feast for the Brahmins, instead of to diamonds, because these diamonds were not to be credited to the jewel account

When the next question was put by the interpreter he seemed to enter into conversation with the witness.

Sergeant Ballantine Please tell us what the witness says

The interpreter I cannot, because I do not understand him

Sergeant Ballantine But perhaps we may

The President I am sure that if the interpreter did not understand him, you will not

Sergeant Ballantine I thought my Lord, the interpreter meant he could not understand his meaning and I thought perhaps we could

Examination of witness continued First of all the Maharajah said, 'Enter these diamonds as for medicine, for the purpose of reducing them to ashes, and accordingly an entry to that effect had been made in the jewel department Afterwards, when there was a noise about poisoning Colonel Phayre, then I asked the Maharajah with regard to the entry for diamonds reduced to ashes, if diamond could be reduced to ashes The Maharajah said they could not I then asked, "What am I to do with the entry that has been made that they are for medicine and for reducing to ashes The Maharajah then said "If the entry has been credited tear it up and destroy it" I told Nanajee Vitthal that if that was the case he should remove it He did so Therefore the amount was entered as paid for Swami Narayan I had received once for all an order that on such occasions I should assign any reason in the entry I mean any reason I liked On the two occasions in which I got arsenic from Nurroodeen I did not pay for it No money has been paid for it Nurroodeen was promised that the business of the Silli khana should be given to him After the report of the attempt to poison, he asked Rs 200 from me He said "The Borah in the camp wants the money The camp is the cantonment Nurroodeen was the Borah He came to me

The Advocate General Tell us what passed

Sergeant Ballantine I object to that I do not know if my learned friend presses it I object to it as having taken place in the absence of the Maharajah

The President What was done and what was said at the time would be all evidence of an act by these persons It is quite admissible

Sergeant Ballantine Your Lordship thinks it admissible,

The President It is not admissible as proving the truth of what may have been said.

Sergeant Ballantine I quite understand the principle on which your Lordship puts it, that there is an act which requires to be explained and that it may be explained by the conversation.

The Advocate General (to the witness) What passed between you and Nurroodeen?

The witness Nurroodeen said "I brought that arsenic and gave it." The first packet had not been entered in anybody's name, and he said that the second packet had been entered in the name of Khangriwalla, that is myself. I mean entered in the shop of the Borah in the camp or cantonment. He said the Borah in the camp had told him that his books had been seized and taken to the Residency. He said "If you wish that name that has been entered concealed give me #200."

Sergeant Ballantine Does your Lordship think that this comes within the category of your Lordship's ruling?

The President I think so. These conversations related to the facts which are material to the enquiry.

Sergeant Ballantine Of course your Lordship hears the evidence, and the impression upon your Lordship's mind is that they are receivable as evidence. It did, however, occur to me that these are conversations which did not take place in the presence of the Maharajah, and are of that kind which, if an accomplice wanted to charge any one with his crime, he would easily invent.

The President So it is easy for you to argue that they are invented.

Sergeant Ballantine Still in putting it before your Lordship I have a right to argue that they might be invented by the witness. It is very difficult to answer such evidence, because no one else was present at the conversations, and it certainly places His Highness and those who represent him in considerable difficulty in these matters; however, I take the objection, but if your Lordship rules the evidence admissible, of course I must accept it.

The President I think we cannot understand a case of this kind without receiving this evidence, without hearing what was said.

Witness continued I said to Nurroodeen Borah, "Pay the money out of your pocket and then the amount will be allowed to you in the Sillkhana business which it is proposed hereafter should be given to you." Nurroodeen did not say anything in answer to that.

Mr Branson Did not the witness add, "and I never saw him again."

The interpreter He said "and I never saw him again."

Witness continued Nurroodeen did not give me the Borah's name in camp. I only saw Rowjee once, and that was at Nowsaree. I never saw him at the haveli, and I do not know of my own knowledge that he was ever there. I remember hearing that Colonel Phayre was suffering from a boil. It was in the month of September I think but I do not quite remember. I mean last year I heard of it because Salim mentioned it to the Maharajah. I was present at the time, and near as I recollect he said, "Colonel Phayre has a boil on his head that he

used to get Rowjee to apply a plaster to the spot and that Rowjee had put on the plaster a pinch of arsenic. After the plaster was applied he felt a burning sensation in consequence of which he took it off. I heard that I do not remember that the Maharajah said anything. About the time Colonel Phayre had the boil I remember receiving orders to get some medicine made. It was the arsenic I gave to Salim. I also remember receiving orders to get some other medicine made after this conversation. It was eight or fifteen days before or after. It was about the same time I cannot say whether it was before or after. This medicine was to be prepared by the hakimjee, and the Maharajah said, "Send to the hakimjee for some large ants serpents, and the urine of the black horse."

The interpreter The hakimjee means native doctor or physician.

Witness continued If he said anything more I do not remember it now. I gave orders to have these things got. These articles were ordered to be sent to the hakimjee. I afterwards got a small bottle from the hakimjee. Goojaba Khanwelkar brought the bottle, as I said yesterday. This is the same bottle as I spoke of yesterday.

The President One of the members of the Commission thinks that perhaps we have not quite got the description of the bottle sufficiently to identify it. You might ask if there was any stopper or anything of that kind.

The Advocate General Can you give any description either of the bottle you got from Goojaba, or the bottle you gave to Salim?

The witness I said yesterday it was a small bottle of this length (pointing from the tip of his finger to the palm of his hand) brought to me by Goojaba, and I poured the contents into a bottle that had contained otto of roses. I do not remember if the bottle brought by Goojaba was sealed with bees' wax or what kind of stopper it had. I fastened up the bottle. I gave to Salim with cotton and bees-wax. This bottle was a glass bottle. I know that the Maharajah used to receive information of what went on at the Residency. Notes used to be sent to the Maharajah by Rowjee through Salim. I know this because the Maharajah used to direct me to read them, and I read them and then tore them up. (Witness is shown four bundles of paper.) These are called *raj khurdo*, or daily journal kept in the place where I used to work. There are four of them. One is for the 11th of Shrawan vud (6th September). I find in this account an item of Rs. 119 8. A portion of that account is obliterated with ink. I did not pour on that ink, a karkoon did so by my orders. The karkoon's name was Bulvantiao, the son of Rowjee. My reason for doing this was that in the entry it was stated generally 'goods in the name of Salim, and there was no *yadee* giving the particulars of the articles, and therefore as there might be some enquiry after the report regarding the poisoning, I directed that ink should be poured on.

The Advocate General The translation is #119 8 then there is the obliteration, and then comes "for articles obtained from Ahmedabad, from the amount reserved from the Nowsaree fund." The portion of the entry in which the name occurs is blotted out.

with ink. It is entirely obliterated. I put it in ; it will be U 1. The *yad* produced yesterday and marked P 1 refers to the entry from *roj khurdo* now produced and marked U 1. The sheet produced is another of the *roj khurdo* or daily journal. It is dated 9th Rajend (8th June 1874), and contains an obliterated entry. That entry was obliterated (partially) by my order's. I gave that order because Salim's name was mentioned in it. The entry relates to a payment of Rs. 1,000 paid to Salim. (*Yad* N 1 put in yesterday, now produced.) This is the *yad* in reference to that item. (*Roj khurdo* put in and marked V 1.) This paper produced is another *roj khurdo*, and it also contains a partially obliterated entry. The date is the 3rd Ashwunt sud (13th October 1874). The portion obliterated in this entry is Salim's name or Yeshwantrao's. I shall be able to tell from the *yad*. The amount is Rs. 200. (*Yad* put in yesterday and marked Q 1 produced.) This is the *yad* which relates to the entry. Salim's name is there. That obliteration was done by my orders for the same reason as stated. (This daily journal was also put in and marked W 1.) This also is another of my daily journals with an obliteration. The date is 3rd Ashwunt (2nd July 1874). The amount is Rs. 298-12. It refers to the *yad* now produced (put in yesterday and marked O 1.) (Daily journal now put in and marked X 1.) I gave the orders to Balwuntrao to obliterate after the report spread at the Residency. I do not remember what day it was. When money was paid for a feast to the Brahmins it was usual to get a receipt. The person who received the money gave a receipt for it. (Witness is shown paper.) This is such a receipt. There is my endorsement on it.

The Advocate General put the document in as showing the practice.

The witness : Similar documents were always kept when a feast was given to the Brahmins by His Highness's direction. (Witness is shown Exhibit T 1). If that were a genuine order for feeding Brahmins it would bear the receipt of Rameshwari. I directed Bulwuntrao to pour ink on these daily journals because something had to be done in order that Salim's name might not be seen.

Mr. Melville (to the interpreter) : You did not translate the whole. He said "Salim's name must be obliterated, and the things did not come."

The interpreter : I did not understand him to say the things did not come.

Question repeated.

The witness : In the *yads* that were shown to me yesterday it is simply written "articles in the name of Salim" and "fruit." There was no *yad* giving the particulars.

DAMODHUR PUNT'S CROSS-EXAMINATION.

Cross-examined by Serjeant Ballantine : I understand you to say that the accounts you have spoken of were all fictitious ?—Not all the accounts ; the greater part of them. Such portions as were made up for the purpose.

And as you say, these falsifications were made up by the direction of the Maharajah ?—Yes, by the direction of the Maharajah.

Given you from time to time or generally : Had you a general authority to falsify, or did you only

receive the authority from time to time ?—As there was occasion from time to time I used to ask the Maharajah and he used to give instructions.

You used to ask permission to falsify ?—Yes, as there was occasion. He knew the occasion for what the money was to be paid.

Do you mean you yourself or the Maharajah ?—The Maharajah.

You asked his permission and he gave it ?—Yes.

Then if these accounts had been investigated, had you any means of showing that you had any authority from the Maharajah ?—What more need I show ; everything I did was under the orders of the Maharajah.

So you say. What I want to know is, supposing the Maharajah had charged you with robbing him, and altering the accounts for the purpose of that robbery, had you any means of showing his authority for what you had done ?—The receipt of the entries in four books, and there is the man who received the money and the man who paid the money.

Had you any means of showing that you had the authority of the Maharajah except your own assertion ; that is what I want to know ?—I had no other authority, only the order.

That is not quite the answer. Had you any means, except your own assertion, for showing that the Maharajah had given you these orders ?—By such orders of the Maharajah lakhs of rupees have been expended during the last four years.

And accounts falsified ?—Where there was occasion that has been done.

And you were the man who did it ?—The Maharajah told me, and I caused the karkoons to do it.

What I ask you is this, and reflect before you answer it. Supposing you had been charged by the Maharajah or anybody else with cheating and robbery, had you any means whatever of proving that you had the Maharajah's authority for what you did ?—The papers themselves contained the means.

And anything but the papers ?—There are receipts endorsed thereon.

Have you a single writing of the Maharajah justifying you in what you have done ?—Unless with the Fudnais (record-keeper) there is no writing.

What I want to know is, can you produce a single letter in the handwriting of the Maharajah justifying your falsification of the books ?—I have none in the Maharajah's handwriting. There are papers signed by the Maharajah's third wife, Luxmeebai.

But you have no signature of his ?—She used to sign under the Maharajah's orders, and there are seals attached.

Have you any signatures of his ?—During the four years the Maharajah never signed any paper belonging to my department.

Then what I want to know is, how you were to defend yourself if you were charged with embezzlement or robbery upon the foundation of these false accounts, admittedly in your own handwriting ?—There are entries at five places, and I could easily have made my defence from that.

Are there any entries in the handwriting of the Maharajah ?—The general statement or annual statement was once signed by the Maharajah in one year.

Have you his signature ?—Yes.

Then you can produce it?—If you send for it, it will come

Very well, we will see if it does come I just want to know, were you aware that there was an intention to investigate your accounts at any time?—By whom?

By any one?—There was no one besides the Maha rajah to examine my accounts before the attachment

Were you told by the police that your accounts would be investigated?—After the attachment they showed the papers and said enquiry is to be made The papers on which ink has been poured were shown to me

Did they tell you that your accounts would be investigated?—They had said generally

What was your salary?—My pay was Rs 200, and my brother's Rs 400 a month

Now I just want to learn something about the way in which your confession was given You were given into custody on the same day, I believe as the Maha rajah?—Yes on the same day in the evening

You had known, I suppose, of Rowjee and Nursoo and others having been examined by Mr Souter?—I used to hear the report

And I suppose you took some interest in it?—If I got any information I used to communicate it to the Maharajah

But I suppose you took some personal interest in it, did you not?—Why should I have personal interest?

I will tell you that directly You had been a party to assisting in the attempted murder?—Yes, I did assist

Well, it occurs to me that would give you some little interest in the enquiry?—Of course with a view to save the Maharajah and to save myself

Principally to save the Maharajah and a little for yourself?—Yes I thought that now as there is attachment, I must be saved now

Well taking some interest for the sake of the Maharajah and a little for yourself, did you find out what Rowjee and the others had said?—I used to hear reports directly from the town. While Salim was at large he used to tell

And you heard that a bottle had been mentioned that Rowjee had mentioned a bottle?—I was in confinement and could not hear

But I am talking of when you were out of confinement Rowjee was examined when you were out of confinement?—No I did not hear

You mean you did not hear that he had said that a bottle had been given to him? Take care—No one gave me this information

Nobody told you about the bottle?—Nobody told me Did you hear about the powder being put into Colonel Phayre's glass?—Yes

Did you hear that it was said to be arsenic?—Yes And diamond dust?—Yes

And that Rowjee had admitted that he had attempted to murder Colonel Phayre?—Yes I had heard of it and I mentioned it to the Maharajah

Now when you were taken into custody what first I came of you? Oh! before that question is answered there is another I want to put As you were a party to this attempted murder and knew that Rowjee and others were in custody how came it you did not destroy all the papers you had bearing on the subject?—What papers were there relating to the matter?

I do not wonder at your asking You have told us you know about several papers relating to the matter —You mean the papers I have deposited to my deposition

Can you have any doubt I mean them?—I must understand properly If there were papers at one place they could have been destroyed but there were at five places, therefore they could not be destroyed

If your story is true you knew these papers were in connection with your own acts, to prove the poison ing is true?—Yes

Then why did you not destroy them?—All the papers except two referred to bribes only two referred to that matter

But did you not know also that there was an enquiry about bribes?—I did not know of it then

Will you swear you did not know of it during the time the enquiry was going on before Mr Souter?—Yes, I can swear I was not in his service, nor did he give me any information

Why did not you when you knew enquiries were going on about the Maharajah, destroy all these papers? You had them in your possession why did not you destroy them?—All the papers could not be destroyed If they were in one place they could be The paper of the jewel department was only one, and that was caused to be torn up

What was there to prevent your destroying every one of the papers that have been produced to day?—In the book of the treasury the money paid is stated then there is a general day book and thirdly, there is a memorandum and a receipt endorsed on it and after that the daily journal now shown is prepared and after that the monthly journal is prepared and the sheets are stitched up To destroy so many papers at so many places is difficult If the money was given in one month only the papers would have been destroyed

Sergeant Ballantine here asked the Secretary for all the papers produced by the witness

Now I see all these documents are upon separate sheets They are not sewn up in a book (To the Court The translations are bound up with these which makes it appear a considerable bulk, but the papers themselves are comparatively small) Now what was there to prevent your destroying every one of these papers if you chose to do so?—If the money had been paid at one place or one time there would have been no objection to destroying them

I will have an answer to my question What was there to prevent your destroying every one of these papers that have been produced in confirmation of your guilt and that of the Maharajah?—There was no convenience to destroy the papers at so many places

What do you mean by no convenience?—There was no help They could not be torn

The President (to the interpreter) Are you right when you speak of no convenience?

The interpreter *Forsud* is the word used which means convenience

The President Sir Richard Meade understands the word to mean opportunity or means

Sir Dinkur Rao thinks it rather means opportunity

Sergeant Ballantine I do not think as I follow this out that the difference in the rendering at all

matters but of course there are cases in which the meaning might be quite contrary

The interpreter then read from the dictionary the meaning of the word *foorsud* as an interval, release or convenience, an intermission after occupation. Example I came to business all day, but I will come if I get convenience

Serj. n^t Ballantine Probably that definition will apply to others It seems to me a word which means other opportunity than 'convenience' (To witness) Now I was just asking you a little question which under all the circumstances I think you could answer What do they do with persons in this country who are found guilty of poisoning others?—They are punished

I suppose so but what do they do with them Do they hang them as they do in our country?—What ever punishment they may give I have not seen the law

Have you no notion?—Yes I have a notion

I should have thought you had some interest in the question Tell me what do you think they do?—Whatever the judges think proper

Do they sometimes hang them here?—No, not in Baroda I have not seen it

No, but still you know your neck might be in some risk, so I ask you the question?—My neck is—

No "was" It is all right now Why do you not give an intelligible reason for destroying papers which might be the means of losing you your life, if round?—I have given the reason at first

Tell me again Repeat it?—Such papers were in many departments, and therefore there was no convenience (*foorsud*) to destroy them

They were all under your control?—Yes

You could get at them all?—I used to send for them whenever the Maharajah asked for information

Never mind the Maharajah Tell me was there any thing to prevent you getting hold of them when you wanted?—They were with me in my charge.

Now being in your charge and knowing that they would implicate you in a charge of attempting to murder, why did you not destroy them?—At that time I was not aware that there would be an attachment, and that this time would come

That is the only reason you can give me?—No other reason

Will you be kind enough to answer this question why, if you did not contemplate that this time would come, and that was a reason you did not destroy the papers, did you obliterate any part of them?—I poured the ink over parts because there was no goods come

To hide something?—Yes

Connected with Salim?—Yes

And connected with this transaction?—Yes, to conceal

Then why, if you thought it worth while to obliterate a part, did you not destroy the whole?—I had orders to give, and I told the karkoons to do it as he could conveniently

Well now, I will just ask you a question which shall be a summary of the whole Are you quite sure you have not invented the whole story for the purpose of accusing the Maharajah?—With a view that if the Maharajah might be accused and that this proof

might not be found this thing was resorted to that is all right

The President (to interpreter) I do not think you put the question right I think you are rather too hasty

Sergeant Ballantine Just follow me It may be my fault I am rather fast Will you swear that you have not invented the whole story for the purpose of accusing the Maharajah of attempting to poison?—Not with a view of accusing the Maharajah

Sir Dunki Rao The papers as they were not such as to bring any accusation against the Maharajah but by pouring ink upon them an accusation is brought So why did you do it?—Because the Maharajah told me I obliterated and poured ink upon them The Maharajah said "Employ any means and make the arrangement

Sergeant Ballantine Just attend, Sir Now just let me follow the Commissioner's view Did it not occur to you that by the very mode which you adopted, attention would be directed to these documents by the great splotches of ink you poured upon them?—At that time it did not occur

The Maharajah Scindia There are accounts at five places is there ink poured over them all?

Question not put

Sergeant Ballantine In consequence of the observation I would call attention to where these splotches are Oh! I beg pardon, it has been noticed already (To the witness) Just a question or two further Do not you think now it was a foolish thing to do to put all these splotches of ink on?—Now I feel so from the consequences as they have occurred

That did not occur to your mind before?—I did not at first think there would be an attachment

No no but these splotches of ink did it not occur to you that they would attract attention?—When I did not know the impression how could I tell the would be any question about this?

Then why did you do it?—In order to prevent the matter going out

Just tell me one or two things Unless you had made a confession of some kind do you think you would ever have got out of jail?—I would not have got out of jail

You were first all under a European guard?—For two days I was made to sit in the Senaputtee's office at Baroda

Alone or in company, with any companion?—My companion was a sepoy

Two days and two nights?—Yes

I suppose you went to bed?—I went to sleep there where I used to sit in the same place

With a sepoy to keep you company?—He was a guard to prevent my running away, and I used to keep him as my companion

After that what did they do with you?—After that I was brought to the Residency

What did they do with you there?—I was sent in a room guarded by sepoys, soldiers

When were you handed over to the police?—After sixteen days, after I had made an admission or confession

What are you doing with yourself now when you are not in the witness box?—They take me to the tent,

and they bring me here when they like. If they tell me to get up I get up, and when they tell me to sit down I sit down.

You are not in the custody of the police now?—Yes, they are police peons.

What are their names?—I do not know. They are changed every four days.

What is to become of you when this is over?—That will depend upon what all the judges say.

Just explain what you mean by that?—Whatever comes to their minds they will say.

Yes, but what do you mean by saying that what will become of you depends upon what the judges will say?—I am guilty because I have admitted it. If they like they will release me, if not, I must hear what sentence they tell.

You suppose it depends upon what is the result of this enquiry is at all supposing that the judges should not believe a word of what you say, what then?—I know that I will be punished.

But if the judges believe what you say you will then get off?—They will release me. I have got a certificate of pardon.

Now I want to get at one or two dates please. I just want to know when according to your account was the first poison handed out but first just answer me this question. How many plots were there to poison Colonel Phayre?—All the plots which have been stated in the depositions given.

You know I am looking at a statement made before Mr Souter—I mean Mr Hughly so my learned friend corrects me and I want you to give me the number?—I gave these five things four tolas of arsenic two tolas of diamonds one bottle besides these if there was anything I do not know.

What is it you call physician's stuff?—That the black anti snake etc?—Yes.

Was that the first second third fourth or fifth attempt?—Oh! I see you only mention three. Was it the first?—I lost or second I do not remember.

Just tell me. Try to remember.—How can I remember it just now?

Have not you said this was the first attempt?—If I said so you will find it down.

That is a remark perfectly true. I remind you that I am looking at what you stated before Mr Richey. Did you not state for Mr Richey that there were three distinct plots to poison Colonel Phayre, first by physician's stuff, second by poisoning the plaster for Colonel Phayre's boil and thirdly by arsenic which was discovered. Having reminded you that you made that statement—I made that statement.

Is it true?—It is true. How could it be untrue?

I suppose the physician's stuff is the stuff contained in the bottle?—It was brought in the bottle which Goopabro brought.

And put into the otto of roses bottle?—Yes.

Now I want to know when was it at?—I do not remember the date.

Give it me as near as you can?—I did not then know there would be an adjournment and I could not then stand in front and criticise it. I had known others would have noted down all the dates, though all you who have not got them all down in—What in mercy?—I do not remember.

Come come, you have a very good memory about when was the bottle given now?—I do not remember, but it must have been in the month of Ashwunt.

When was that?

The interpreter Part in October, and part in November.

Sergeant Ballantine What part in October does it begin?

The interpreter (reading from TIMES OF INDIA Calendar) It begins 11th October and ends 9th November.

Sergeant Ballantine (to witness) Then do you mean to say it was between those dates?—Yes.

You are sure. How long before the Dewalee?—If I had remembered these days I would have given you the date. I do not remember.

The interpreter The Dewalee begins upon the 9th November, when the Ashwunt has finished.

Sergeant Ballantine My learned friend has just told me so but I am very much obliged to you all the same (To witness) About how long?—I do not remember.

Was it a week before?—A week or two, I cannot remember.

Was it more than two weeks?—It might be. I gave the bottle. I do not remember when.

Oh! but was it more than two weeks? Let us have a little particularity in the matter?—The five items were given during the month of Ashwunt.

When you gave this bottle did you perfectly well know it was for the purpose of poisoning Colonel Phayre?—Yes I was aware.

This was only last year?—Yes, last Ashwunt.

Do you mean to tell me you cannot say within a week when you give a bottle for the purpose of poisoning a fellow creature?—No I do not remember the day.

I do not ask you the day I ask you within a week.—That too I cannot say.

Might it have been as early as August (Ashud)?—That had passed away long ago two months before. Then it cannot have been in August.—What!

Is that a question to me? Well you shall have an answer. It could not have been in August.

The President (to the interpreter) You are putting the English months. What is the use of saying August unless he knows what it means? It must be put to him in that way the name of the months which he understands. Not in the way of August.

Sergeant Ballantine Merely ask him this! might it have been in August, putting the proper name for the month?—Witness No.

Might it have been in September?—The first note written to the Fouzdar was 4th October 1874.

I am told that you have said that all the events took place between 4th October and 9th November?—Yes.

Question repeated—Yes, during that time all these five things were given.

Sergeant Ballantine My Lord there are some half dozen further questions I wish to ask that are not quite in my mind at present. If you would allow an adjournment now and allow me to ask a few questions after the adjournment, I should be much obliged.

The President It is not quite two.

Sergeant Ballantine No my Lord Of course I

could ask some questions to put us on to two, but I do not want to ask any but what are material.

The Court then adjourned for tiffin.

When the Court resumed after tiffin, the cross-examination of the witness was continued as follows.

Now about the sales of arsenic, tell me was there some edict that no sales of arsenic should take place without the Maharajah's sanction?—The arsenic could only be had at the Fouzdarree.

And could it always be had on the Maharajah's order?—The officer in charge there knows that.

Do you not know it?—I did not work at the Fouzdarree, and do not know.

Do you mean you do not know that on the order of the Maharajah arsenic could be had to any amount?—With the Maharajah's permission it could be had.

Then why was it when you had the Maharajah's permission, you did not get it?—Hormujee Wadia said after asking the Maharajah he would give it.

If you had the Maharajah's permission to obtain the arsenic, what was the difficulty in getting it?—The Maharajah had told me to bring it. He had not issued an order to the officer himself.

But why did you not get an order?—The Maharajah did not give an order. He told me to write a note and say it was required for a horse.

Have you seen Nurroodeen Boirah lately?—When do you mean by lately?

You know what I mean by lately—When I was at large, or after I was in confinement?

When did you see him last?—When do you mean? Well, I am sure, that is shuffling.

The President Make him give an answer to the question It is a simple one.

The witness After I was in confinement he was brought before me.

How long was that ago?—I do not remember.

Do you mean that you have not seen him within the last two or three days?—No, not within the last two or three days.

Within the last week?—No.

When he was confronted with you, did he say you had told a parcel of lies?—He did not say anything, but I told him that I had given all in writing.

Did you say in his presence that you had said that you had purchased the arsenic from him?—Yes, I said to him that I had admitted that I had bought the arsenic from him.

Did he say that it was a lie?—Before me he did not say anything.

Did he not deny it?—He was confronted before me and taken away.

By whom?—Some officer, whom he was I do not remember.

A native officer?—Yes.

Akbar Ali?—I do not remember that.

Abdool Ali?—I do not remember.

Just try and recollect, was it Akbar Ali?—How can I remember just now.

Was it Gujanund Vittul?—No, it was not.

But it might have been Akbar or Abdool Ali?—I do not remember, it might have been.

So he was brought before you and you told him that you had purchased arsenic of him?—Yes.

And then he was taken off to prison again?—I do not know where he was taken.

He was taken away by an officer?—Yes.

Was Goojaba brought?—Yes.

By Akbar Ali?—Not by Akbar Ali.

By whom?—By Gujanund Vittul.

Did you tell him you had told all about him?—Yes, I told him when he was sitting.

And then he was taken off again?—Yes, he was also sent back.

You have told us that you gave the bottle to Salim

—Yes.

You knew it contained poison?—Yes.

Well, you said, did you not that the Maharajah was present at the time you gave the bottle?—Goojaba brought the bottle with the Maharajah's permission.

The President Was the Maharajah present?

The witness I have stated, in my statement that the bottle was brought to my house by Goojaba?

Mr Melvill Put the question this way—"When you gave it to Salim?"

The witness I was with the Maharajah's procession, I got down, went to my house, and gave the bottle to Salim.

Sergeant Ballantine Cannot you say if the Maharajah was present?—The Maharajah was not present I gave the bottle in my house.

What did you say to Salim when you gave the bottle?—I said "Take this to Rowjee."

Did you tell him what Rowjee was to do with it?—It was not necessary to tell him, he knew it.

Did you tell him?—I did not.

Did you know what it was for?—Yes,

What was it for?—to put in water in order that blisters might be caused to the body.

Interpreter It might be boils.

Do you mean on the body of Colonel Phayre?—Yes.

In what way?—By throwing it into the water with which he would bathe.

Did you hear afterwards that he had done so?—I did not hear I do not know whether he did or not.

Now recall your memory, and let me know when that was?—Either before or after the Dussera some two or four days.

Did you ever hear from anybody what had been done with the contents of that bottle?—No, I did not.

You never asked?—No.

Was Yeshwantrao constantly about the palace?—When there was business he used to come On Mondays and Thursdays he always came.

And Salim?—Salim also used to come for the procession, and if notes were to be brought during the interval, he used to come there.

Did you never ask Salim what he had done with this bottle you had sent to murder Colonel Phayre?—I did not ask him.

Had you no curiosity?—No.

DAMODHUR PUNT'S RE EXAMINATION.

Re-examined by the Advocate General? Now you told my learned friend that the accounts were in five places?—Yes.

What were those in place?—The dates I pointed

out a short time ago. What accounts do you mean ? That is what I want to know. My friend asked you why you did not destroy all the papers, and you said 'they were in five places, and you had no opportunity of destroying them ?—The order of the Maharajah was to give money to certain persons. That was the oral order, upon this order a *yad* was prepared. From the *yad* the karkoon and the man who had received the money went to the treasury with the *yad*. The treasurer had a book and the item was entered in his book. When the money was paid it was entered into the rough daily account. From that the *khurdo* now shown to me was prepared. That was the fair daily account. From the fair daily account the monthly paper called the monthly *thalibund* was prepared, and from twelve *thalibunds* an annual account called *joorthibund* was prepared.

Then every transaction that passed through your hands would appear in all these accounts you have mentioned ?—Yes, when the papers were prepared, if there was any mistake, the mistake would be in it then.

Now, you say lakhs of rupees were expended during the last four years by you under the orders of the Maharajah ?—Yes.

Did all the private expenditure of the Maharajah pass through your hands ?—Yes.

Now, during the four years you were private secretary, did you ever receive a money order from the Maharajah for the payment of any money ?—No.

Was the Maharajah in the habit of signing orders for the payment of money ? Before, on one *thalibund* alone the Maharajah has signed.

Question repeated

Witness The orders in regard to all the expenditure which was made daily were not signed.

You say he only signed one monthly account in your time : Yes

Now you mention one paper in the jewel department which you said was torn up which paper was that ? Diamonds debited on account of medicine.

Now, before you were arrested, had you heard any particulars of what Rowjee or Nursoo had stated ? Rowjee had made a confession and taken a certificate. This is the information I had got.

Mr. Melvill (to the interpreter) ? Did not you use the word "kulassa" ? Yes.

That means rather an abstract. Is there no better word than that ?

The interpreter then put the question, using the word "thupseel"

The witness I had not heard any particulars.

The Advocate General ? From the time of your arrest till the time you made your confession, had you heard from any one what the particulars of the confession made by Rowjee and Nursoo were ? The particulars were not known to me. I knew that a certificate was given to him, and he had made a confession.

When you made your statement, was it taken down in writing in Marathi ? It was taken down in English, and a karkoon was writing it in Marathi.

And after it was taken down in Marathi, was it read over to you or did you read it over yourself ?—I read it at that time.

And was it correctly taken down ? Yes.

And did you sign it ? Yes.

(A paper is handed to witness) Will you tell me

if this is the Marathi record of your statement and is that your signature ? Yes, here is my signature

The President Before Mr. Richay, was it ?

The Advocate General Yes, at least this purports to have been read over before Sir Lewis Pelly.

(The Marathi document was then put in and marked Z 1.)

The Advocate General My learned friend desires that I should also put in the English statement (After a pause) I find I rather misunderstood my learned friend He wishes them proved.

Sergeant Ballantine I think I conveyed rather a wrong impression to my learned friend.

HENCHUND PUTTYCHUND'S EXAMINATION

Henchund Puttychund was next called and cross-examined by Mr Inverarity. He said I live at Baroda and carry on business as a jeweller? I know Nanajee Vitthal I know him day and night. He is in the service of the Gaekwar. I never took him any jewels

Mr Inverarity Who did then ? Of what value ?

Did you or any one from your shop ever take him any jewels ? At what time ?

About the last Dussera ? I never took him any about the last Dussera.

Did you ever take any diamonds to Nanajee Vitthal ? No.

Did you ever take any diamonds to the havalee — Do you mean lately ?

Yes, lately ? No, not lately

About the time of the last Dussera ? Yes. Who asked you to take them there ?—Nanajee Vitthal said "Bring some diamonds"

Did you take any ? I took some, but they were given back to me

Whom did you take them to ? I took them to Nanajee Vitthal.

Did you ever take these diamonds back again ? No, not.

Did you ever go back with any diamonds to the havalee ? No

Did you ever take any diamonds after that occasion to the havalee ? No

Were any diamonds ever purchased from you by Nanajee Vitthal about the time of the last Dussera ?—No.

Have you ever received any money in payment or part payment for diamonds from Nanajee Vitthal ? No, I did not receive any money.

Did you ever receive any money at all from Nanajee Vitthal about the time of the last Dussera ? I received from Nanajee Vitthal a sum of money that was due to me in the month of Kartik last.

The interpreter He used the names of two months Kartik and Margshirsh, October and November.

The witness continued ? I know Venkatesh.

I took diamonds to him at the palace, on the 7th or 8th Assoond vad (31st October and 1st November) Venayekrao Venkatesh is the brother-in-law of Nanajee Vitthal, and is employed at the jewel office for the Gaekwar. I took these diamonds to him at the jewel office. I did so by Venayekrao's directions. I took two packets of diamonds to Venayekrao. Neither of them were bought. They were rose diamonds, six or seven to a ruttee in weight. (The

interpret A ruittee is something less than a carat) They were neither very small nor very large The money I received from Nanajee Vitthal was on account of transactions

The interpreter He means money transactions Sergeant Ballantine He says transactions

Mr President It means money transactions

The Witness I had given a hoondee for Rs 7000 to Veerchund Kooshchichund I received that money in payment of that bill of exchange I received one sum of Rs 2000 one of 4000 another of 2000 and another of 2000 I received Rs 10000 and there were some other dealings also The two packets of diamonds I took to Venayek Rao were given back to the owners of the diamonds When I went to the havalee with these two packets of diamond I did not see Damodhur Punt I never sold any diamond to Damodhur Punt or Venayek Rao or Nanajee Vitthal I remember being examined by Mr Souter

Mr Inverarity My Lord I would ask leave to examine this witness on the statement he made to Mr Souter

The President You cannot use the statement to Mr Souter as evidence now

Mr Inverarity I only propose to ask him if he said to Mr Souter certain things

Sergeant Ballantine I object here to that What I understand to be the principle is that if a witness is called and counsel wish to cross examine him he must satisfy the judge that the answers the witness has given are not true upon the surface I believe in stating the ground on which cross examination is allowed to a witness called by a party

The President He made a statement to Mr Souter that might be read to him

Sergeant Ballantine Does your Lordship think it might be read to him by the party examining him?

The President I think it might be read to him under certain circumstances For instance if he appears to be reluctant to give evidence

Sergeant Ballantine What I mean is where your Lordship is satisfied that he has exhibited such unwillingness as to justify cross examination As witness may not answer as counsel wishes but unless there is something in his evidence or in the mode in which he gives it I apprehend a learned judge will not allow him to be cross examined on the *ipso dictu* of counsel or the statement of counsel that he has said something different at another time

The President (after consulting with the other members of the Commission) In order not to rely solely on my own opinion upon the manner of the witness I have consulted two of my brother Commissioners and we think there is that about the manner in which the witness has given his evidence which entitles the Advocate General to remind him of the statement he made before Mr Souter

Mr Inverarity (to the witness) Now was your statement that was taken by Mr Souter taken down both in the Marathi language and in English? My deposition was taken down in Guzerathi

And was it read over to you after it was taken down? As to the deposition it was taken down by him in his own handwriting

Was it read over to you or did you read it over after it was taken down? It was reduced to writing in the evening and I was made to sign it It was not read over to me I did not acknowledge this statement to be correct I was forcibly made to sign it I did not acknowledge anything

Did you not sign the statement in the presence of Sir Lewis Pelly? Gajanand Vitthal said to me Do not you say anything do not you speak do you sign

The question repeated

The witness Yes The statement was not read over to me in the presence of Sir Lewis Pelly

Was it acknowledged by you to be true in the presence of Sir Lewis Pelly? I did not say anything of the kind

(A paper is handed to witness)

Is that your signature and inscription?—I This handwriting does not appear to be mine It is not mine

Tell him to look at the signature and see if that is his After looking some time This is my signature

The President (to the interpreter) And what was it he said was not his handwriting?—The same line

Did he say only that it did not appear to be or that it was not—He said both

Mr Inverarity (to the witness) Are these three lines above the signature yours also?—That is my handwriting

The interpreter translated the lines which were as follows — Read the abovementioned particulars which were deposited day before yesterday in the presence of Souter Sahib According to that it is correct
—Dated 8th February 1875

The witness The signature above those three lines is mine also At the time I put my signature great *soulah* (oppression) was practised on me I was compelled and made to sign I can read Guzerathi I cannot read this deposition well I can make out a part here and there I can make out the name Hem chund Futtichund I cannot read and understand the document

Mr Inverarity Will you take the deposition, Mr Interpreter and repeat it after me? Ask him if he said to Mr Souter that 'some few days after the last Dussera festival Nanajee Vitthal in charge of the Golkar's Jewel room directed me and other jewellers to bring some diamond chips which we did the same day and handed them to Nanajee who retained them The following day our diamonds were all returned and we were told that the price did not suit Two days after Nanajee Vitthal directed me to bring my diamonds back again they were weighed the price settled, and purchase concluded Four or five days later I was again sent for by Nanajee Vitthal and directed to bring other diamond chips which I took to the Palace accordingly Nanajee Vitthal was not present in the Jewel room The diamonds were therefore handed to Venayek Rao Nanajee's brother in law, who weighed and priced them and then took them along with me to Damodhur Punt who remarked that the price was high, but kept them saying that he would purchase them if required On this occasion the diamonds were in two packets, both of which were kept, but about four days after, one packet was returned to me

The witness I did not make that statement to Mr Souter They caused me to write what they liked I mean Gujanund Vittal did The whole of that statement that has been read out to me is false I never said anything of the sort when I was examined by Mr Souter

Mr Inverarity Now did you say this —

"A few days after it became known that an attempt had been made to poison the learnt Col Phayie Nanajee Vithul asked me whether I had entered the purchase of the diamond chips in my book and if so that I was to remove them in some way or other as he was afraid that the diamonds in question had been made use of by Col Phayie On hearing this I became afraid and at once caused the pages of my account books on which the sales of the diamonds were entered to be removed and fresh pages substituted

The witness I did not say that to Mr Souter I did not say anything like it I produced my books before Mr Souter They have been obtained there for a month and a half

Mr Inverarity Did you say to Mr Souter The three books now before me (lettered A B and C) are those that were thus tampered with?

The witness Yes

The interpreter In the Guzerathi that we not the words 'that were thus tampered with'

(Three books are handed to witness)

The witness These are the books I produced before Mr Souter I pointed out entries in these books to him

Mr Inverarity Did you tell him that any particular entries would be found in any particular pages of these books —What do you mean

Any item at all! —Any items that are in the book you will find Here are the books

Question repeated

The witness I did not say so

Mr Inverarity Now did you say this — "The price that I was to receive for the diamond chips was Rs 6270 of Baroda currency, and on account of this sum I was paid Rs 3000 by Nanajee Vithul which has been credited at pages 10 and 24 of the day book as having been received from one Khemchund Khushal A portion of the above sum of Rs 3000 was counted out and paid to me by Nanchund Shiroff of the Doomala villages

The witness I did not say that to Mr Souter or anything like that No portion of that statement that has been read out to me is true Since I made my statement to Mr Souter I have been living at my house in the city There has been no guard of any sort placed over me

(A book is handed to witness)

Mr Inverarity Is this your *jungad* book for the Sumvat year 1930? Yes

The interpreter *Jungad* means a book in which goods left for approval are entered

Mr Inverarity (to witness) Look at the entry for the 14th Ashod vad.

The President This native year 1930 corresponds to last year!

The interpreter Yes, my Lord, with the exception

of the last two months of the last year The new year begins on the 10th of November

Mr Inverarity (to witness) In whose handwriting are these two entries? In my handwriting

Mr Inverarity read the first entry which was for Rs 270/- for diamonds debited to the account of His Highness

The witness Gujanund Vittal forcibly caused me to make that entry

Mr Inverarity then read the second entry, which was for Rs 320/- for diamonds

The witness I wrote this at the desire of Gujanund Vittal

The President (to Mr Inverarity) You will have to furnish the *Surat* with these

Mr Inverarity Perhaps it will be advisable to put in the statement now

The President No you can read it to the witness to refresh his memory but the Presidesy will have already read to him must be put down as part of your questions Perhaps you had better mark the passages in the books with the instance of Mr Nowrojee

Mr Inverarity The passages shall be marked for identification

The President It is now past half past four

Mr Inverarity There are a good many more questions

The President Mr Advocate General I am entirely in your hands in the matter

The Advocate General There are a few more items on which questions should be asked

Mr Inverarity Permit me to put one more question

The President Certainly

Mr Inverarity (to witness) What time was it when Gujanund paid you write the entries —It was in the day when I turned in and went to bed

How long before was it when you made your statement to Mr Souter? It was before It was on the day on which it was made

How long before? It was on the evening of the same day on which I was made to write this statement

The President Does he mean I was made to make a statement on the same day on which I was made to write these entries Is that so?

The interpreter Yes That was in the morning and I made my statement in the evening

Sergeant Ballantine (on the Court rising to adjourn) My Lord there was some intimation given that the Commission proposed to change its hours

The President I have not yet been able to arrange that If so we will let you know We must meet to-morrow as usual I am afraid a change will not be practicable

Sergeant Ballantine I was afraid myself it would scarcely be practicable and as we are not now at the commencement of the enquiry, we may be able to finish without utter despatch

The Court then adjourned

THIRTEENTH DAY.

BARODA, MARCH 11

Yesterday afternoon at eleven o'clock, the Commission resumed its sitting All Commissioners were present His

Hughes Mulhario was absent in the afternoon, the Maharajah Scindia was absent Sir Lewis Pelly was present during a portion of the examination.

On the assembling of the Court the Advocate General said Before the witness is called I wish to point out an error in the short hand writer's note Will your Lordship refer to the answer of the witness as to the three lines above his signature in the d position My note is that he said These three lines were in his handwriting The short hand writer has taken it down that it is not in his handwriting

Mr Branson The TIMES OF INDIA report is correct It says it was in his own handwriting

The President Where was it?

The Advocate General It was towards the end, just before his deposition was read out

The President My note is this "The three lines above my signature are in my handwriting"

Sergeant Ballantine That is how I have my note

At the request of the President Mr Justice the Secretary to the Commission referred to his notes and confirmed the report of the TIMES OF INDIA He read as follows "The three lines above the witness's signature were read Question put Are these three lines in your handwriting —They are

HEMCUND HUITYCHUND'S EXAMINATION— (continued)

Heemchund Huitychund was then called and his examination continued by Mr Inverarity as follows — (An account of him is handed to the witness)

In whose handwriting is that entry — It is my handwriting

Sergeant Ballantine What entry is that

Mr Inverarity It is the first entry immediately following the last entry referring to yesterday

Mr Inverarity When did you enter that — Together with the preceding entries

And how came you to write that entry — (Answered and) With this entry in order that the other entries may not prove false

Mr Inverarity Will you read the entry, Mr Inverarity, in English

The interpreter reads as follows — 'Josh Permunnund Nurnunge Assoval the 14th On rub, finger ring enamelled taken by him for the purpose of wearing, price Rs 21

Sergeant Ballantine Will you let me look at that please

The interpreter The corresponding English date is the 8th November

The President Are you going to use that now We should like to see it

The Advocate General No my Lord We are not going to use it now

The book was then handed to the President

The interpreter The entry I mentioned just now is the last in the book

Sergeant Ballantine It is the last in the book, but the first on another page That ought to be noticed also

The Advocate General I ask that that book may be marked as an exhibit It would be A The book was then marked by the Secretary

HEMCUND HUITYCHUND'S CROSS EXAMINATION

Cross examined by Sergeant Ballantine Let me look at that book for a moment Your Lordship will excuse me asking the interpreter to read out this entry to me in English The last entry of the diamonds is immediately before the entry of the rubies

The interpreter read "D 1 + 1 to the account of Mulchand Gaikwar, Assoval the 14th That is the same date I mentioned before

Sergeant Ballantine That is the 7th or 8th

Mr Melville I thought he gave the 8th of November only

The interpreter That is an intercalary day, and includes the 7th and 8th

The interpreter continued to read "Delivered to Damodhar Pant Narunge personally I have followed the items "Rs 270/- v hindoo diamonds That is rose diamonds, or inf mor diamonds Rs 3000 for 100 ruttas at Rs 40 Second item "Rs 3,500 vellu diamonds number 120 weighing ruttas 70 at the rate of Rs 50 each Then there is a third item "Perub diamonds coloured, weighing 44½ ruttas, at Rs 3/- In the columns for the rupees there is no amount mentioned, but there is returned

Sergeant Ballantine (to witness) What is the difference between rose diamonds and coloured ones — They are diamonds of different kinds

Does the difference consist in the cutting, or the quality of the stone — The vellu diamonds sparkle These are distinguished from rose diamonds?

The interpreter Those are what I translated "rose but do not other diamonds sparkle

Mr Melville That is just my idea

The interpreter Vellu diamonds are thin, and the brilliants are thicker

Sergeant Ballantine (to witness) Now I want to know whether you mean now to say that this is a true copy or a false one — Gujanund caused that item to be fabricated

Had you any dealings for diamonds at that time with the Maharajah or on account of the Maha Rajah — No not for diamonds about that time With the Maharajah personally I had no dealings

That is in book B, is it not — It is the book returned in the deposition marked B

The interpreter It is marked A outside on the cover

Sergeant Ballantine Let me see it It appears to be marked A There are three books referred to which I now want to refer to, and they are returned A, B and C (to the witness) Now, there are two other books in which there are payments put down on account of the Maharajah Just look at the other two books Is there any reference in them to any dealings you had with the palace — Do you mean with the Gaekwar Sirur?

Or anybody on his behalf — There are items of dealing in this book

Now did you at any time supply the Gaekwar on anybody's application with any diamond chips — I have not supplied any diamond chips to anybody

Do you know what diamond it is Yes it is small diamond

That is what he call it

Mr Branson (to the interpreter) You used the word *bookee*, try *late*.

The interpreter That is a Mahrathi word I doubt if he will understand it I will try however.

Question put again interpreter using the word *late*.

The witness I do not know that word.

Sergeant Ballantine Did you ever see diamonds reduced to powder? No I have not.

Now you were examined or purport to have been examined on the 6th February last before Mr Souter? —I was not examined before Mr Souter, but I was examined on three or four occasions.

Were you ever examined before Mr Souter or did you ever give your evidence to Mr Souter? I do not know Mr Souter.

Well I suppose you will know him if you see him just look at this gentleman here (pointing to Mr Souter). You need not be afraid of looking at him in Court (laughter)? I was examined before two or three sahibs.

But did you give your evidence before two or three sahibs or to the police only? First of all I was examined by the police.

Now, go on what after that? The policemen then took me before two or three sahibs.

Well when the policeman took you to two or three sahibs, did you give your evidence over again or did you only sign the evidence you had given? As to the signature, I gave it to Gujanund and Sir Lewis Pelly.

But was the evidence you have given, given in the presence of Sir Lewis Pelly, or before you went before Sir Lewis Pelly? I had in the first instance been made to give my deposition, and my signature had been taken to it before.

Then when you went before Sir Lewis Pelly was anything more done than that you should read out the words preceding your signature and admit your signature? Gujanund sent for me and said "Do you put your signature do not say anything, if you do I will imprison you.

What I want to know is (and as Sir Lewis Pelly is present there cannot possibly be any mistake) did you write anything at all in the presence of Sir Lewis Pelly? I have already told you that I was threatened and made to give my signature.

Did you do that in the presence of Sir Lewis Pelly? Yes.

Attend to this question and see if you understand it. Did you give any evidence in the presence of Sir Lewis Pelly or did you give your evidence before and to Gujanund Vitthal? Gujanund had made me forcibly sign my deposition and to that I was made to sign in the presence of Sir Lewis Pelly.

Mr. Melville Did he not say deposition in Marathi?

The interpreter He did not.

Witness continued I was made to sign what had been written by Gujanund.

The interpreter His deposition is in Guzerathi.

The President So I understand.

Sergeant Ballantine Give me the written deposition which was put in yesterday (To witness) Did you dictate to Gujanund what was written down? Gujanund wrote down what he liked.

Was it read over to you? It was not.

And Gujanund Vitthal told you if you did not sign

it you would be sent to prison? Yes and I have been annoyed every day up to the present time.

By whom? By sepoys They seize me and bring me up every day and detain me.

Have you seen Gujanund Vitthal since you have been up here? Since you have come here to give your evidence? No.

Did you see him yesterday? Do you mean before or after I gave my evidence?

Either? Yes I saw him before.

Did he say anything to you? Yes he did.

What did he say? He said "An item of debt and credit to the amount of three lakhs has been made in your name which is false.

Did he say anything else? No.

Did you see him after you had given your evidence yesterday? No.

Where have you been since you gave your evidence yesterday? Have you been home yes I went home.

Now I just want to call your attention to what you are supposed to have said before Mr Souter. It is stated you said 'A few days after it became known that an attempt had been made to poison the Resident, Colonel Phayre, Nanajee Vitthal asked me whether I had entered the purchases of diamond chips in my books' Yes 'And if so, that I was to remove the entries in some way or other as he was afraid that the diamonds in question had been made use of to poison Colonel Phayre' Is it true that Nanajee Vitthal did come and ask you these questions?—I have not sold diamonds nor has Nanajee Vitthal come and asked these questions of me.

This is what further you are supposed to have said, "On hearing this I became afraid, and at once caused the pages of my accounts books on which the entries were entered to be removed and fresh pages substituted. Is that true? I do not know anything at all about it.

The depositions, my Lord, goes on then to say "the three books now before me, lettered A, B, and C are those which were thus tampered with. I just call attention to the fact he is supposed to identify the books and they are the books already in.

The interpreter The word "tampered" does not appear in this translation. It says here "The books which are now marked A, B, and C I produce

Sergeant Ballantine (still reading the deposition) "On hearing this I became afraid and at once caused the pages of my account books to be removed. The three books I now produce. There is a further passage to which I call your Lordship's and the witness's attention "The price I was to receive for the diamond purchases was Rs 6 270 Baroda currency."

The interpreter (reading from the deposition in Guzerathi) "Rs 6 270 was the amount due for diamonds They were given That occurs in the Guzerathi.

Sergeant Ballantine "And on account of this sum I was paid Rs 3,000 by Nanajee Vitthal, which has been credited by Nanajee Vitthal on page 24 in the day book as having been received from Kemchund."

The interpreter The name "Kemchund" does not appear here. It is Shivachund "On that account Rs 3,000 were paid to me by Nanajee Vitthal which

has been credited to Shivachund Kusalchund at pages 10 and 24 of the daily cash book.

Sergeant Ballantine Tell him to refer to pages 10 and 24 of the daily cash book First, page 10 (to witness) Is there an item there of payment? There is, a receipt of Rs 2,000

From whom? Received from Nanajee Vittul. That amount was received on account of money due to me.

For what? On account of a hoondie for Rs. 7,000 which I had given

The interpreter A hoondie is a bill of exchange.

Well, now, the item on page 24 Do you find there a receipt acknowledging money from Nanajee Vittul? —Yes, Rs 2,000, for the Gaekwar's sircar palace called Dumalla. Received from the karkoon employed in the Dumalla palace (The interpreter By "dumalla" he means district, not palace)

What was that for—Rs 2,000

For what? On account of money due me.

For what? A hoondie or bill of exchange.

Due from Nanajee Vittul? It was in respect of a hoondie which I gave to Shivachund Kusalchund.

The President We have had that before

Sergeant Ballantine Yes, I think we had it yesterday I did not quite see the bearing of it yesterday One more question. Do you know where that bill of exchange is? The bill has been paid, and is in the possession of Nanajee Vittul. It has been paid and received

How came it into the hands of Nanajee Vittul? He caused me to give it up to him. There are three hoondies or bills of exchange

Three sets or three bills? The interpreter He says three hoondies

Has Gujanund Vittul all your papers? Yes, twelve of my books, and three paid bills of exchange

We have not given notice, but I would ask that these be produced.

The Advocate General You shall have them all immediately I have sent for them. Here is one of them.

Sergeant Ballantine (handing it to witness) Is this one of them? Yes, this is it.

Does any payment appear upon that?—Yes, there is a receipt on the back of it.

For how much? The interpreter. It is in Deccanee characters.

Can you not make it out? The interpreter I will try and do it in a short time.

(The two other bills were also produced.)

Are these the other two bills? Yes, one is for Rs 3,000, and the other for Rs 4,000—total Rs 7,000

How much is the first that was handed to him? The interpreter Rs 750.

Just take these bills into your hands again. Upon which of these bills f upon any of them, were the payments made which appear on pages 10 and 24 of your books? Those two items which I pointed out in my books were received in part payment of these three hoondies.

The interpreter One is dated Wednesday, 10th Ashud sud, and is Rs 3,000, another is for Rs 4,000, and is dated Tuesday, 9th Ashud sud.

The Advocate General In what year?

The Interpreter The year in either case is not given The interpreter (referring to the TIMES OF INDIA Ca-

lendar). The third is for Rs 750, and is dated Ashud 1st, Tuesday. The corresponding dates are Ashud 1st, Tuesday, 14th July 1874, 9th Ashud, Thursday, 23rd July 1874, and 10th Ashud, Friday, 14th July 1874

Sir Richard Meade But if the 1st is the 14th the 10th must be the 23rd.

The interpreter Not necessarily in Hindoo days. Sometimes a day is not noticed at all. In that way they cannot correspond at all. The Hindoo months, being lunar, sometimes they omit one day, sometimes add one.

What year were these two hoondies in? The interpreter? Oh! I beg pardon. I see it is given It is the year 1830 That is the last year. The days will therefore correspond with the days in the calendar I have given.

What is the date of the third hoondie for Rs 750? The interpreter Kartik sud 30th 1830 That is the Hindoo year The corresponding date is 8th December 1874.

HEMCHUND FUTTYCHUND'S RE-EXAMINATION.

Re-examined by the Advocate General Now you have told my learned friend that at the time of these two entries were made you had no dealings with diamonds on account of the Maharajah? Not with the Maharajah regarding any diamonds, nor on account of it.

Now look on the very same page on which these entries occurred, and tell me in whose handwriting that entry is (pointing to one)? As to the practice in my shop—

In whose handwriting is that entry, sir? do not know the name of the gomasta in whose handwriting it is. The practice in my shop is that any one who comes to my shop is made to write.

Is it a genuine entry? Yes, but it refers to brilliants.

Mr Melville (to interpreter) What word does he use for brilliants?

The interpreter He said brilliants.

Mr Melville What word did he use?

The interpreter He used "brillians," a corruption of the English word "brilliants."

The Advocate General What is that entry? 13th Ashud vud.

Last year? Yes.

Tell us what the entry relates to You know you told us the false entries related to the 6th November 1874

Item from book read by interpreter "Debited to the account of Sircar Mulharao Gaekwar Ashud 13th, by the hand of Nana Sahib, who has given his signature Rs 28,000. One formal head dress of brilliant diamonds" Then follow the particulars, weight, &c. The total of the item is Rs 28,000.

Now look at an entry above that, on the previous page. Is that a genuine entry?

The President Are these the entries in the same books, and above what he said were forgeries?

Sergeant Ballantine, Yes, purporting to be on the 6th.

The Advocate General I am now referring to one on the previous page of the same book

(Witness) They were for ornaments? Yes, diamonds made of brilliants

Sergeant Ballantine Are they ornaments or loose diamonds

Entry read "Rs. 27,000 for one necklace made of brilliants."

The Advocate General What date is that? 5th Ashwin sud.

That is the 29th October 1874? The interpreter Yes

Do not fasten up your book, sir Give it to me. Look at the page behind that again The first entry on that page Is not that an entry of diamonds sold to the Gaekwar? It is not diamonds, but a nose-ring of pearls.

The date? 8th Ashwin sud.

That is the 18th October? Yes.

Through whom was that ornament which you say you made of pearls sold? To Venayekrao or Nanajee Vitul.

The President and Mr. McLvill Did he say "through" or "to"

Question repeated. Witness answered My gomasta was in the habit of taking the ornaments and delivering them either to Venayekrao or Nanajee Vitul, whoever happened to be present.

For whom were they? It might have been thrown away or presented to somebody or other.

But on whose account did Venayekrao or Gajanund (?Nanajee) Vitul receive them? To whom is it entered? As to the sale, it was sold to the Sircar, but it was delivered through Nanajee Vitul. The purchaser was Nanajee Vitul

Sir Richard Meade What is the debit?

The interpreter It is debited to Mulharao Gaekwar by the hand of Nanajee Vitul for Rs 800 for one pearl nose-ring Then follow the particulars

The Advocate General I think it is Rs 1,800, not Rs 800

The interpreter I beg pardon that is so

The Advocate General Is not that book full of transactions of diamonds and other things sold by you to the Gaekwar during the year 1930? Whatever ornaments were given are entered as debits to the sircar.

By "given you mean "sold"? Yes.

And are there not very many such entries?—Yes there are many items.

Do you mean to say that your evidence was not taken down by Mr. Souter that gentleman (Mr. Souter is produced)? No, not that I remember.

Do you not remember this gentleman asking you questions in Hindustani? How could questions be put unless I gave my deposition to him, which I do not know?

The President Tell him he must answer the question

Question repeated I did not.

The Advocate General You understand Hindustani? No, Guzerathi I understand, but Hindustani, no. What is Hindustani or Mussalmani?

Do you mean to say you do not know? I understand the Guzerathi language

Do you mean to say you do not understand Hindustani? I do not.

Not at all? I do not know what kind of language you mean by Hindustani. What sort of language is it?

The interpreter If you wish I will address a few questions to him in Hindustani.

The Advocate General Oh! no, I will not trouble you

The interpreter I think the first few questions I put to him yesterday were in Hindustani, and that when he began to answer in Guzerathi, I went on in that language

The Advocate General (to witness) Were you not yesterday examined in Hindustani? No, I understand the Guzerathi language.

Now look at the three lines above your signature (deposition handed to him) Where did you write those three lines which appear above your final signature? I was made to write this in the bungalow of Sir Lewis Pelly

In the presence of Sir Lewis Pelly? Yes.

Did you tell Sir Lewis Pelly what Gujanund Vitul had done to you as you have told my learned friend? —No I did not say that to Sir Lewis Pelly

That Gujanund had practised violence on you? No, because I had been threatened, therefore I did not

Did you make any complaint whatever to Sir Lewis Pelly? No Gujanund Vitul said, "You should give your signature as we asked you to do so. Do not raise any objection there about it."

You say you have been annoyed every day by sepoys who seized you and brought you up every day and detained you? Yes from 8 o'clock in the morning until 8 o'clock at night

Where were you detained? At one time in the Residency Bungalow, and afterwards at some trees near Gujanund Vitul's house Even yesterday, when I went home, three sepoys came to my house at 8 o'clock at night

What for? To call me

To call you to come here to day? They told me to come with them to the Fouzdar

Did you go? I was not at home My gomasta was taken

Before the Fouzdar? Before Ramchunder

Who is that? The Fouzdar

The Fouzdar in the city? Yes, he sits at the Mandaviee in the city.

How often were you taken to the Residency altogether? Once

How often to the trees near Gujanund Vitul's house Every day I was taken and sat there

Every day since when? About a month and-a-half, or a month and three-quarters

Every day? I have been released the day before the assembling of this Commission.

Look at this book, *janqar nand* Have any pages been taken from it or added to it since it was last made? I did not introduce any new leaves in it.

Did you take any out or put any in? I did not take any out or put any in

Did you get anybody to take any out or to put any in? I did not cause anybody to take any out or to put any in My books have been in custody for two months.

Do you know whether any pages have been taken out, or introduced, or not?—Seven or eight leaves appear to have been removed.

From what part of the book?—Old ones appear to have been removed, and new ones appear to have been introduced (pointing to the leaves)

Are these the leaves following the two entries following the two false entries you said you were forced to

make?—Referring to that entry regarding the ruby rings there appears to have been some fraud in connection with that entry.

I do not ask you that. You said that some of the pages seem to have been removed?—So it appears.

Which pages. Does that on which the rings appear, appear to be one?—Yes, but this item appears to have been fabricated.

Do you mean that that page and those which follow it appear to have been substituted or added?—Whether new or old I cannot say, but there appears to me to be a sort of fraud.

But what sort of one?—About the page or leaves, and the items.

I want to know whether the pages which have been substituted are those beginning with that entry which is of the ruby ring?—Yes, they appear to be new leaves, and this item appears to be a fabricated one or a fraudulent one.

Sir Richard Meade? What date is that?

The interpreter? Ashud vud 14th?

Sir Richard Meade? About the ruby?

The interpreter? Yes, and I may mention that the colour of these leaves appears to be different from the colour of the rest of the book.

The President? We are going to look at that directly.

The Advocate General? Now take the day book.

The President? Have you done with that book?

The Advocate General? Yes, my Lord.

Sergeant Ballantine? As a good deal of new matter has.

The President? I do not understand that the Advocate General has done altogether.

The Advocate General? Oh! no. [Sergeant Ballantine? I beg pardon.] I ask him now to take his day-book.

After a long consultation by the Commissioners amongst themselves, the re-examination was resumed by the Advocate General. Now just take these two hoondees (two of the three already produced) for Rs. 3,000 and Rs. 4,000. Tell me how they are drawn, by whom, upon whom?—They are both drawn on Hemchund Puttychund, of Bombay.

Is that your firm in Bombay?—Yes.

By whom are they drawn?—By Puttychund, jeweller.

Is that your firm here?—Yes.

In whose favour are they drawn, bearer or any one here?—Shivachund Kusalchund, of Poona?—Yes, of Poona.

Who is he?—A jeweller.

How came he to have these hoondees drawn in his favour?—Shivachund had given some goods to Nanajee Vittal.

Given them! Do you mean sold them?—Yes.

Had you sold these goods to Nanajee Vittal on your own account or on any other person's account?—For my own private purpose.

Are these hoondees given in payment for these goods?—Yes, Nanajee Vittal caused me to draw these bills in respect of them.

And that was in full payment of the goods Nanajee had bought from Shivachund?—Not in full payment, but after paying these two amounts it leaves a balance due to him of 100 or 150 rupees.

Both of those hoondees have been paid by your Bombay firm to, or on account of Shivachund?—Yes.

And they are both dated in the month of Ashud vud, that is, July 1874?—Yes.

Besides these two hoondees of Rs. 3,000 and 4,000, had you any other hoondees payable to Shivachund?—The other hoondee is not payable to Shivachund.

Will you answer my question?—Only two.

Have you any entry in your book showing this hoondee transaction of the three and four thousand rupees?—Yes.

Find it?

The interpreter? He wants his *nond* book.

[The book was handed to the witness. After examining the book some time the witness asked for his other ledger, which was also handed to him.]

The witness? Here it is.

The Advocate General? What is the date of the entry?

The interpreter? “Jeth vud the 12th and 13th, Friday. Debited to the account of Shivachund of Poona. The hoondees are written and delivered at the request of Shettjee (which means master). Two hoondees for Rs. 7,000, at Bombay, at Rs. 19 $\frac{1}{2}$, annas $\frac{1}{2}$ exchange. Drawn on Hemchundbhoy Puttychund, drawn from here by me (or us). Payable immediately. Drawn on Ashud sud, Rs. 4,000 and Rs. 3,000, and there is an item of exchange Rs. 1,375-15—total Rs. 8,375-15”

The Advocate General? What is the date of the entry?

The interpreter? Jeth vud, 12th and 13th, Friday?

The Advocate General? Jeth vud is the month before Ashud, is it not?

The interpreter? Yes.

The Advocate General. It would be some time in June these were entered?

The interpreter? The date corresponds to the 11th and 12th of June 1874.

The Advocate General (to the witness)? Now what sums did you receive in respect of this hoondee?—My account amounts to Rs 10,000.

Did you receive Rs. 10,000?—Yes, with the exception of a small sum due to me.

The President? Would you ask him how it came up to Rs. 10,000.

The Advocate General? That is the next question I was going to put. I think it can be explained by an entry in his books. (To the witness)? How came it that your account came up to Rs. 10,000?—The hoondee was given to Nanajee Vittal's brother-in-law, and a sum was paid in cash.

That is Narayan Venkatesh?—Yes.

How much was paid in cash?—Four or five hundred rupees.

Well, which was it, you have your book there?—I must refer to my ledger (Refers to it) The new ledger has not been posted.

Very well, perhaps we can do without it. Hands a hoondee to the witness. Is that the hoondee you gave to the brother-in-law?—Yes.

What is the date?—Kartik vud 30th, 1930 (18th December 1874).

Now, have you got an entry of that in your book?—Yes, to the account of Shivachund.

Why is that hoondee entered to the account of Shivachund?—Because Nanajee Vittal was the owner of the account.

Where is the account?—Which account?
The one in which you say this is entered.—The new ledger has not been posted up.

But you have other books besides the ledger. Where is your daily cash book?—What is the date?

Well, you have just given it, 30th Kartik vud?—Here it is. The hoondee is for Rs 750, and the amount for exchange Rs 155-10, and there is a sum of Rs 94-6 in cash.

The hoondee is entered, is it not, on the day on which it bears date?—Yes.

And this a correct entry, is it not?—Yes.

Now, had Shivachund anything to do with that entry, or was it a hoondee given to Nanajee Vittul?—It was given to Nanajee Vittul a brother-in-law.

Not to Shivachund at all?—No.

Both the hoondee and the cash?—The cash also.

Now look at page 10 of that same day book at the entry to which my learned friend referred you. You find there Rs 2000 entered credited to the account of Shri Poonawallah.

The interpreter read the entry, which was as follows:

"This is an account of Shivachund Khusalchund, of Poona being the 10th of the month, Thursday, Rs 2000 in ready cash paid by the hands of himself personally."

Sergeant Ballantine By the hands of whom?

The interpreter This is a literal translation.

Sergeant Ballantine I dare say it is my stupidity, but I want to know whom 'himself' refers to.

The witness Very likely to myself. I got the money very likely.

The Advocate General I You say "paid by the hands of himself personally means by yourself? Yes, I got the money in cash from Nanajee Vittul.

And you say that "himself" there means not Shivachund but yourself? Yes,

Now the date of that payment, I think, is the 9th or 10th Kartik vud.

The interpreter Th month is not mentioned. It says vud the 9th and 10th, Thursday.

The Advocate General Ask the witness what month it is.

The witness It is a daily account and the previous entry shows it is the month of Kartik.

The interpreter The 9th and 10th are the 2nd and 3rd December Thursday is the 3rd December.

The Advocate General (to witness) Now that entry was not written by Gujanund's directions, I suppose? Who says it was written by Gujanund?

Well, it is a genuine entry made in the course of business? Yes.

Now, turn to the entry on page 24 to which my learned friend referred you, and tell me what is the date of that entry? The 10th and 11th of Margashir vud.

(The interpreter That corresponds to the 2nd and 3rd of January 1877.)

Now the amount there is Rs 2000? Yes.

The interpreter then read the entry, which was as follows:—'Credited to the account of Shivachund Khusalchund, jeweller of Poona, Margashir vud 10th, last is vud the 11th, Rs 2000 in ready cash, examined coins, received by the hands of your gomasta Cooberjee, who made the payment through the Doomalla.

The Advocate General (to the witness) Who is the gomasta mentioned in the entry? He is the gomasta

employed in the Doomalla department. Very likely he was the person who made the payment.

Is he in the employment of Shivachund at all? No.

Is he employed under Nanajee Vittul? No. Cooberjee gomasta is the name, I think, of the person who paid the money.

What is this Doomalla mahal, as you call it? There is a karkoon employed in the Domalla mahal, who did business for Nanajee Vittul.

And what is the name of that karkoon? Nanchund.

Am I right in the conclusion that this hoondee for Rs 7,000, and these entries for Rs. 2,000 each, relate to Nanajee Vittul's transactions with you? As to these Rs 2,000, they were not hoondees, but money received in cash.

Question repeated.—Yes in respect to the hoondee for Rs 7,000 and the other dealings and transactions

Well, now, how do you make up the accounts to Rs 10,000?—About that amount.

But you told me that you had received Rs 10,000 from Nanajee, how do you make it up? The hoondies which I paid were for Rs 7,000, and including exchange, Rs 8,500, the other bill of exchange was for Rs 1,000, and there were sundry amounts of four or five hundred rupees.

You say Nanajee Vittul was owner of this account of Shivachund Khusalchund, how was that? Nanajee Vittul had bought a kunthi (necklace) from Shivachund Khusalchund, and portions of that ornament were sold from time to time.

Through you? Yes. By me portions of the value of Rs 4,000 and by Nanajee Vittul of the value of Rs 2,000, and the balance I received in cash.

Well, I want to know why the account was kept in the name of Shivachund when it really belonged to Nanajee? In order to ascertain the amount of loss that might be realised by the sale of that ornament

Do you say that the day book has been tampered with also? Have any pages been removed and others substituted? I cannot observe any.

Or in the journal? No.

Sergeant Ballantine A single question. Whether, throughout all your books there are any genuine entries of the sale of single diamonds, or unset diamonds.

The interpreter Loose diamonds that is the way I am going to put it if you do not object.

Sergeant Ballantine Whenever you make a change it is for the better. Put it that way.

Question put. Witness answered I have not sold any loose diamonds of late.

Sergeant Ballantine Is there any entry of any such sales? I have not sold any.

The President Does he mean by that, there is no entry? If I bought any, they would appear on the credit side.

Sergeant Ballantine Is there any genuine entry in your books of the sale by you of any loose diamonds? Whatever the books contain must be true. I do not remember what they exactly contain.

Sergeant Ballantine We must take that answer and let the books speak for themselves.

The Advocate General I think it desirable that I should have translations of these entries to which I have referred.

The President Do you mean translated now?

The Advocate General Translated before the close

of the case, so that your Lordships may have them before you

The President I suppose we shall have translations
Mr. Melville Have the passages been marked?

Mr. Jardine was understood to say that the Advocate General did not wish them to be marked

Mr. President They have not been marked

The Advocate General I do not think there will be any difficulty about marking them

Mr. Jardine was understood to say that he did not think his notes would be sufficient by which to mark them

The President was understood to say he thought they would be sufficient (To witness) When were your books seized? About a month and three quarter ago

Do you mean from this time? Yes

They were all seized then were they? Yes, twelve books of mine

Up to that time did you use your books in the way of your business? Yes

Sir Richard Meade One month and three quarters ago That would be about the middle of January Can you give the precise date? I think it was in the month of January (native month Iosh), though I do not remember the day of the month

The last entry in this book is the 7th or 8th November Therefore no entry can have been made between that date and the day the books were seized How is that?—With reference to the date of that item this is the book for the *janjar* book for the Hindoo year 1830 After that there is a separate book

And did that year terminate on that day? Yes

The President The book containing the entry of the 7th or 8th November terminates that year? Yes

The interpreter It is for the Hindoo year 1830 which terminates at the Dussehra 9th November

The President And it is the book he says is not a genuine one

The interpreter Yes that is it

The President Is there an entirely new set of books for the year? Yes an entirely new set for the new year

Then I want to know I understood him that some of the old leaves had been taken away and new leaves put in If what he says is true then on the leaves put in and the leaves taken away there would be no entries

The interpreter He said the last leaf inclusive of the leaf on which the last entry is written

The President And that leaf had been taken away? Yes

The Advocate General Did he say that?

The interpreter "Had been taken out and new ones put in

Sir Richard Meade Do you mean that for the last entry in the book

The interpreter He says "Leaves have been taken away and others substituted With reference to that item, this is the item that I was made forcibly to write It was not in existence originally, and there were no other items subsequently

The President If that is so how can he explain the removal of the leaves and putting in new leaves? What was the object of it?

The interpreter He has not answered the question He says "I was very much confused and alarmed at the time I was made to write it, and I was glad to get away.

The President That is no answer to my question Put it again

Question repeated

Witness As to whether the other pages had contained any item or not I do not quite remember

Was he interfered with by the police when he left this room yesterday? I was prevented as I was getting out from here

What does he mean by prevented? I was desired to wait

By whom? By a police sepoy.

How long was he made to wait? Five or six minutes

Was he after that allowed to go away? I was then made to wait outside the outer gate (Interpreter He means the gate of the compound?)

Let him say what happened then? At the gate of the compound a sepoy desired me to wait He said I will let you go when I receive permission from Gujanand Vittul or the sahib to let you go Afterwards he let me go and I went home in the evening, and the sepoy came to my house at 10 o'clock at night.

The President He has told us about that

The Maharajah of Jeypore Did the sepoy have any conversation with him except what he has said? That was all

The Court then adjourned for fifteen

NINAJEE VITTLU'S EXAMINATION

When the Court resumed its sitting Ninajee Vittul was called and examined by the Advocate General He said I am a Brahmin by caste I was employed in the Javarilhana (jewel department) of the Maharajah I was dhooga (superintendent) to the jewel department I know Damodhur Punt At the time of the last Dussehra I received directions from him It was before the Dussehra The directions I received were that diamonds were required for the purpose of reducing them to ash In consequence of these directions I sent for diamonds from two or three persons Three jewellers brought me diamonds at the haveli They were Ghelli Shah Patib Shah and Hemchund I mean Hemchund Luttychund I kept some of the diamonds I got from Hemchund for one day and showed them to Damodhur Punt

The President Does he mean he only kept those he got from Hemchund?

The witness On the same day all had not brought diamonds The other two brought them on the following day I informed Damodhur Punt about the diamonds and kept them with me On the following day the other two persons brought them diamonds The diamonds belonging to all three were then shown to Damodhur Punt He approved of Hemchunds, and those belonging to the other two were returned

Hemchunds were weighed and taken Their weight was about 68 or 68½ rutties After they were weighed they were given to Damodhur Punt A yad was made by one of the karkoos at the time the diamonds were taken I did not see the yad the larkoon prepared it and put it on the records After five, seven, or ten days other diamonds were brought from the same man Hemchund by Damodhur's direction They were chips and rose coloured diamonds.

Sergeant Ballantine? Not "rose coloured, rose diamonds?"

The interpreter Yes, rose diamonds.

Sergeant Ballantine I wish you would translate properly. This is not the first time I have noticed it.

The Advocate General What quantity of diamonds did Hemchund bring?

Sergeant Ballantine He never said Hemchund brought them.

The President His answer was "other diamonds were brought from Hemchund."

The Advocate General Who brought the diamonds on the second occasion?

The witness Hemchund brought them. They were taken. There were 73 or 74 ruttees. These 74 ruttees were brought according to the instructions of Damodhur Punt, and given to him. An entry of these diamonds was made on the first memorandum on the same day (paper). The price of the diamonds was Rs 1. I do not remember it. The price written at the Bunnia's house is correct. The total price was a few rupees over 6000. They were probably valentines (flat rose) diamonds. There were three, two, or perhaps one to a ruttee. I paid Hemchund in respect of these diamonds. I give him Rs 3000. This payment was in two sums, one of 2000 and one of 1000. The Rs 2000 was to be taken from Damodhur Punt. I had to give him some money. The memorandum was prepared for payment and payment was made according to his instructions. Some Ventian coins were sold on account of the muzzurrana with the men who was to be used in payment (Witness is shown exhibit S 1). That is one of the yads. The money was in my hands and the memorandum bore my signature. The other yad belongs to the light department (Witness is shown Exhibit L 1). This is it. That is the amount to which these two yads refer in my hands. I paid Hemchund Rs 2000 out of this. I paid the money through Nanchund. Nan chund is employed as a hoolie in the Dowlas' mahl. The Rs 1000 was paid from my own house. They were paid in cash. A hoondie was given for Rs 2000. I had paid Hemchund Rs 2000. On account of this Rs 2000 a hoondie for Rs 1000 was taken from him and the other thousand was left with him and they were allowed in this account. I mean the account on which part payment of Rs 2000 was made.

The Advocate General I wish you Mr Nowrojee (the senior interpreter) would watch the interpreter there is an important part of that answer omitted (to the witness). On which account?

The witness The account of diamonds

The interpreter I did not say that before.

The witness The hoondie was for Rs 2000. Some cash may have been taken from him and for the payment the hoondie was taken. I do not remember in whose name the hoondie was given (Witness is shown a hoondie). This hoondie is for Rs 750. Some amount must have been paid in cash.

The President Is that the hoondie you have spoken of?

The witness I do not remember. The Rs 2000 were Lombay rupees (the interpreter) I mean But I am speechless.

The Advocate General Now, do not be so quick.

The President This is an instance of it, that is just through being too quick.

The interpreter I will try to be slower.

The witness continued The yads were in the records of the karkoon Atmaram. I do not recollect his father's name. About the end of the Dewallec Damodhur Punt asked for the yads and took them. The Dewallec lasts five days and this was on the last day or the day before Damodhur Punt received the yads from me. He took them and said "I will destroy them."

The President He would destroy them?

The interpreter That is, "I will destroy them."

Mr Branson And he added "I do not know what he did with them."

The witness I do not know what he did with them.

NANAJEE VITUL'S CROSS EXAMINATION

Cross examined by Sergeant Ballantine I do not quite understand you. I suppose because I was not in Court at the time. What is your position? You mean my salary?

No what is your position? I am superintendent of the jewel department.

Just tell me what does that mean? What are your duties? To take care of the ornaments in the jewel room, and to give them when the Durbar wants to wear them.

Have you any other duties? To make purchases relating to the jewel department.

What do you suppose these diamonds you have spoken of were purchased for? I was told they were for the purpose of making ashes.

Who told you so? Damodhur Punt.

A has for what? For the Durbar.

Did you ever hear of diamonds being turned into ashes for the Durbar? No, I have not heard.

Did you ever see diamond dust in your life? I have been seeing diamonds only since I have been employed during the last four years.

Did you ever see or hear of diamond dust in your life? I do not know.

You know if you have ever seen it or heard of it? I have not seen it.

Or heard of it? Nor have I heard of it.

What have you been doing with yourself lately? Where are you staying now? I have been staying in Baroda.

Under a guard of anybody? I was under the surveillance of the Khan Bahadoor's police.

Do you mean by that that you were in prison? On the day the Rajah was arrested I have been made to sit that is I have been also arrested.

Does that mean that you have been in prison? I have been made to sit, and I consider myself as confined.

Put what for? I do not know.

But I suppose, you have asked, have you not? To whom?

Well, I suppose, to somebody who has got hold of you? —He asked me about the accounts of the diamonds and I mentioned it to him.

Put are you charged with anything? Are you charged with punishing anybody? No.

Are you charged with anything? The jewel department was in my charge, and when the Rajah was arrested, perhaps I was arrested.

Sergeant Ballantine? Did he say "perhaps"

The interpreter? He used the word "basswallah," which I understand to mean perhaps?

Sergeant Ballantine (to witness) You were arrested because the Maharajah was arrested, is that what you mean? The Maharajah was arrested, attachments were made at the palace, and guards were placed

When did you first tell this story that you have told to day about these diamonds being brought up by Hemchund? I was sitting at the wairas for fifteen or twenty days. After I came to the camp I mentioned it

Well, I want to learn what that means with a little more particularity. Do you mean that you were in prison for fifteen days and then made this statement? For 15 or 20 days I was in the city, and during that time nobody asked anything.

Where you in prison 15 or 20 days before anybody made any inquiries of you? Yes, I was at the warras [palace]

Who had charge of you? I was in the Sonaputty butchery

Who were the people who had charge of you?—The Puri sepoys

While you were in prison for 15 or 20 days, did anybody come to you to make a statement? No, nobody came to me there, I was sent for here

Who came for you? Some sepoys went there where there is a karkoon, Vishnu Punt. Gujanand Vittal perhaps sent a peon

Sergeant Ballantine? What did he say?

The interpreter? Gujanand Vittal perhaps sent a peon

Sergeant Ballantine? Is that what he said?

The interpreter? Yes, he used the word *basswalla*

Sergeant Ballantine (to the witness)? And did you go? Vishnu Punt gave me instructions, and I came in a gharry in company with a sepoy to Gujanand Vittal

Well, what said Gujanand Vittal to you? He asked me about diamonds

Well, what did he ask you? I rather want to know how Gujanand Vittal does this sort of thing? He asked me "How many diamonds were purchased at your place in the month of Ashwin?"

Purchased at your place?—At my place means the jewel room

You mean, I suppose, purchased by you? Yes

Did he ask you what you had purchased of Hemchund? No, he asked me generally.

What did you say? I said "Yes, they have been purchased."

Had you heard anything about Rowjee and these people before this? About Rowjee and Nursoo and what they had been saying, had you heard anything? No.

Now attend, sir. You were taken into custody about the same time as the Maharajah, were you not? On the same day

Do you mean to tell me you had not heard any thing about Rowjee and Nursoo and their being examined? I do not know anything

That is not what I asked you, sir. Had you not

heard of Rowjee and Nursoo being examined? I do not know. I have never seen them. They are not acquainted with me

Now answer my question sir, and do not shuffle. Do you mean that you had not heard that Rowjee and Nursoo had been examined? Yes, I do mean that.

That you had never heard of it? I did not hear that.

You swear you had never heard that Nursoo and Rowjee had been examined? After the enquiry here I of course heard

I have not asked you that, sir. At the time you gave a statement to the police constable, do you mean you had not heard that Rowjee and Nursoo had made statements? I did not hear. I do not know what examination was taken.

That is not the question. Had you known that Rowjee and Nursoo had been examined in relation to the Maharajah and in relation to diamond dust? After the Dewali. I heard that some attempt had been made at poisoning

Now, I will have an answer, though you stand there, as one of the witnesses said till Doomsday. Had you heard that Rowjee and Nursoo had been examined upon this subject, upon the subject of the poisoning? I had not heard of it at that time. I knew that they were in prison

Before you made your statement did you know that Rowjee had made a statement? I did not know

And Gujanand Vittal did not tell you anything about any statement that they had made? No

Did Gujanand Vittal recommend you to tell the truth? Yes

Did he tell you what would happen to you if you did not tell the truth? I was threatened and told that if I did not tell the truth I should know what was the result of an untruth

What did you think that meant? I thought they would put me somewhere, put me in prison

And what do you think will happen to you if they do not believe you now? What the Sircar will do will be done. There is no other help

Well, what do you expect? I cannot say. What the Sircar will do will be felt

Well, I suppose, you would not be sorry to get out of the care of the police? To get out of that or not is not in my power

Well now, just tell me, did Gujanand Vittal take your statement down in writing? No, orally

Then after you had made your statement, what did he do with you? He took me to the sahib

Do you mean Souter sahib? Souter sahib was not then there

Who was it he took you to? Some sahib living in that bungalow (points west)

Give us some idea who it was? I do not know, but Sir Lewis Pelly was also present

Now just tell us, was Sir Lewis Pelly present when you made any statement? Now, just be cautious! When he wrote down he was present

Who wrote down? The other sahib who was present

And did you make your statement in the presence of both? Yes

You are sure of that are you? Yes

Did you know of Damodur Punt making a statement? No

How long had you been in custody before you were taken before the sahib and Sir Lewis Pelly? Twenty days first, and now a month. The next seventh lunar day will be two months.

NANAJEE VITTLU'S EXAMINATION

Re-examined by the Advocate General You say you were 15 or 20 days at the Senaputty kutcherry in charge of Furlas' sepoys do you know whose servants they were? They were the Gaekwar's troops

They were in charge of the whole palace? The guards were sent from the camp?

Put in the int'nt there were the Gaekwar's troops? Yes but they were under these guards

Now was it after you had made your statement to Gujanund that you were taken before the sahib? Yes, at 8 o'clock the same evening

Sir Dinkur Rao Are you the mooktar [responsible head] of the jewel department? Yes I am daroga

The *yads* are produced is there any other writing in the form of accounts besides these *yads*? An account in regard to purchases is kept, but no account is kept in regard to these *yads*

Sergeant Ballantine "Purchases I think he said *yads*"

The interpreter He said "An account in regard to purchases is kept, but in regard to these *yads*, no account is kept"

Sir Dinkur Rao [to the witness] Is there an account in regard to purchases? Yes

In your account is there an entry regarding the purchase of diamonds? Not in my accounts he took away the *yad*:

Mr Melvill Who did that? Damodur Punt

Sir Dinkur Rao Have you got entries in your accounts to the effect that diamonds for Rs 6000 were received from Hemchund? In the jewel department there are no accounts of anybody and there is no proof or voucher for the same

Sergeant Ballantine I am told that an answer was given that has not been translated, that he kept regular accounts of purchases

The interpreter You have got the notes [pointing to the shorthand writer for the prosecution]

Sergeant Ballantine I do not want the notes I want the answer

Mr Melvill in referring to his own notes, found the answer had been given

The President The answer was given and I have it

Sergeant Ballantine So I understand I thought the answer had not been given

The witness No ledger accounts are kept in our department

Mr Melvill [to the interpreter] In the first answer you gave there is not the word 'ledger'

Sir Dinkur Rao (to witness) Are purchases and sales to the amount of lakhs of rupees made orally? The entries are made item by item, and details are given below

Have you got Hemchund's ledger showing the items of ornaments received from him? As regards other ornaments there is but there is no such account with regard to these diamonds, because Damodur Punt

took away the *yad*. In the accounts of Hemchund each item of the ornaments is entered but with regard to these diamonds, the *yad* was taken away and no entry is to be found

What details were given in regard to the diamonds purchased? Purchased diamonds from Hemchund Futtichund That was all

In the *mangnaree yad* (the *yad* of ornaments given in detail) were entries in regard to these diamonds for Rs 6000 not made? The paper is prepared at the end of the month

In regularly kept accounts there is the price weight, and number of the ornaments given without such details how could a sower's accounts be kept? At the time of making payments a *yad* is prepared in the 'khanq' department and that *yad* gives the price, rate weight and full particulars

An account relating to any department is not kept in this manner As regards the jewel department here such is the practice You will find vouchers from the beginning

Should the accounts produced by the sower written in a book be believed or your verbal statement? What answer can I give to this?

How can we say if this *yad* of yours is a true *yad* or a false one What comes to the sircar's mind is true

The Advocate General? He bows to the decision of the Commission

The President? Yes it is very complimentary

It was now half past four o'clock, and the Court rose

FOURTEENTH DAY

BARODA, MARCH 12.

YESTERDAY forenoon at eleven o'clock the Commission resumed its sitting All the Commissioners were present His Highness Mulharao was absent In the afternoon again, the Maharajah Scindiah was absent Sir Lewis Pelly was present during a portion of the afternoon

ATMARAM BIN RUGONATH'S EXAMINATION

When the Court assembled Atmaram bin Rugonath was called and examined by Mr Inverarity He said I was a kaikoo in the Gael war's state jewel room The head of my department is Nanajee Vitthal I remember diamonds being purchased about the last Dewalee It was about eight days before the Dewalee Diamonds were brought by four merchants The name of one was Hemchund Futtichund I think Ghelli Hemchund was the name of another I am not quite sure though Pertub Shah was another The diamonds were brought to the room of the jumdar i hana

Mr Melvill Is it jumdar khana or juwar khana?

The interpreter I asked him and he says "juwar-khana" jewel room

The witness The diamonds belonging to the others were returned except those of Hemchund which were purchased There is some writing by the hands of Nanajee Vitthal's harkoon, named Venayek Venkatesh about the purchase of the diamonds The writing was kept in Nanajee Vitthal's records It was given to me four or five days after I kept it in the records I kept it four or five days more After that Nanajee Vitthal sent for me and took that *yad* from me, I have

not seen the *yad* since that I remember hearing in the city that an attempt had been made to poison Colonel Phyre Nanajee Vittal took the *yad* from me about the time of the D wallee Nanajee Vittal took the *yad* from me before I heard the report of the poisoning

MARAM BIN FUGONATH'S CROSS EXAMINATION

Cross examined by Sergeant Ballantine Are you still in the jewel department?—Yes

Who is the head of the jewel department now?—Gunputram Mahajan

Just tell me what are diamond chips?—Small diamonds are called

Are they the parts that are cut in cutting?—Yes

Did you ever see or hear of diamond dust in your life?

Mr. Iran on (to the interpreter) Say *lotu* for diamond dust

The interpreter *Lotu* means flour

Sergeant Ballantine Well put your own word

The interpreter The word I use is *bookee*

Mr. Melvill Say pounded diamonds

The witness I never saw them

The President That is I never saw pounded diamonds?

The interpreter That is it

Sergeant Ballantine (to the witness) How long have you been in the jewel department?—Twelve years

Was the Maharajah in the habit of buying diamonds?—Yes he was

Small and large?—Yes

Did he buy them in ornaments or loose?—Loose as well made into ornaments

Did he possess many diamonds?—Yes

Now you have said that of those lots of diamonds that were brought for the approval of the Maharajah Hemchund's diamonds were purchased How do you know that?—Nanajee Vittal approved of the diamonds belonging to Hemchund

But do you know anything about these being purchased except what Nanajee Vittal told?—Sometimes I was called in by Nanajee Vittal when he settled and weighed diamonds

Were you present at the purchase of these diamonds of Hemchund's?—I was present on the occasion

Now what took place?—Venayekrao made out a *yad* in his own hand which he kept by him It remained with him

Is that all you know?—That is all

Did you ever see the diamonds again?—No

What are these small diamonds used for generally?

—For the purpose of setting

Now did not you know that Nanajee Vittal had returned these diamonds to Hemchund?—No I do not know that

Do not you know that?—I will tell you how it happened The diamonds were taken in the manner I have described and Nanajee took the *yad* The second or third day after that I asked the merchant ' Did you take your diamonds away He said ' yes What merchant?—I asked Hemchund

And did not Nanajee Vittal tell you not to make any entry of the diamond chips as he had returned them to Hemchund?—Nanajee said "I am going to take the *yad* away , they are not to be purchased

Did not he say he had returned them to Hemchund?—He said ' I do not want to purchase the diamonds I wish to return them

And did he say he had returned them?—That day he said to me ' I am going to return them

Did not Nanajee Vittal tell you that you were to make no entry of the diamond chips as he had returned them to Hemchund?—No he did not

Now you were examined by Mr. Douter?—Yes

Now I will read to you what you will tell Mr. Douter Now attend You said Nanajee Vittal told me when receiving the memo that I was to make no entry of the purchase of the diamond chips as he had returned them to Hemchund —What I have done is true They were to be returned to Hemchund

The Advocate General I have sent for his vernacular statement there may be an error

Sergeant Ballantine?—Oh! I have taken the translation There is no doubt there are inaccuracies in the English version in many instances

The Advocate General I understand there was no vernacular statement taken

The President (to the witness) At the time the diamonds were brought by Hemchund and the other jeweller were there any loose small diamonds in the jewel room?—Nanajee Vittal who is the head of the department ought to know

Do you mean by that you do not know?—I do not know

Sergeant Ballantine Perhaps my Lord following that your Lordship would ask him whether there was a sword hilt that was being ornamented A scabbard and hilt And were small diamonds being used at that time?

On the question being put the witness said Jewelry work was going on

The President Do you mean that jewelry work was going on such as has been described in the question?—The scabbard and hilt were being set with diamonds

Small or large?—Small

And also a jacket?—Yes, a jacket was also being set

Do you know where the diamonds came from that were used for this?—They had been in store

For how long?—I cannot say, but there is a balance in store every year going on from year to year

A balance of small diamonds?—Yes

Do you mean there is a balance of small diamond always in store?—Yes, from year to year

BULWANTRAO ROWJEE'S EXAMINATION

Bulwantrao Rowjee, examined by the Advocate General said My employment was in the private department of the treasury department

The Advocate General He used the word *khangi*, did he not?

The interpreter Yes and he then added treasury.

Witness continued I was employed under Damodhar Punt The four *khurdes* or daily accounts produced (U VI, VII, and XI already put in) refer to payments made to several persons out of the private treasury I find certain entries obliterated with ink I do not know how they came to be obliterated.

Witness was not cross examined

RAMESHWUR MORA'S EXAMINATION

Rameshwur Mora, examined by the Advocate General, said I am one of the disciples of the Swami Narayan temple in Baroda. You may call me the head disciple here. In the month of 8th Margshirsh sud (31st December last) I did not receive any money from the Gaekwar for a feast to the Brahmins. If I did I should have given a receipt. I never at any time received the sum Rs 3,612 from any one on behalf of the Maharajah in the month of Margshirsh sud for the purpose of feasting the Brahmins. When I received money from the Maharajah for these purposes I gave receipts. I used to give my writing to a paper and then I received the money. The receipt produced [Y 1, already put in] is not in my handwriting. If it refers to the month of Ashud sud it is all right. A feast was then given to Brahmins of which I gave a *yad*. I know a person called Balonath Punjaram. He is my own man. I know his handwriting. The receipt at the foot of the *yad* produced (Y1) is in his handwriting.

RAMESHWUR MORA'S CROSS EXAMINATION

Cross examined by Sergeant Ballantine. On one occasion I understand you to say you received Rs 1,100? —Rs 1,125 in the month of Ashud.
This receipt is one? —Yes.
For what? —Rs 1,125.
The exact sum? —Yes

RAMESHWUR MORA'S RE EXAMINATION.

Re examined by the Advocate General. What was the Rs 1,125 for Ashud? —For the purpose of giving a feast to Brahmins.

Besides that Rs 1,125 for the purpose of giving a feast to the Brahmins, did you receive any money in Ashud besides that Rs 1,125? —I do not remember. No. Besides the feast did you receive any money for distributing in charity? —Yes. The khangi karkoon used to come and pay the money.

How much? —Rs 375.

Mr Melvill. Did he say Ashud?

The interpreter. The month was not put to him, nor did he say

Mr Melvill. Ask the question.

Question put. When was it given? —The same day that the feast was given.

The President. Ask him why no receipt was given for the Rs 375? —It was the karkoon who brought the money in quarter rupees and distributed them to the Brahmins there.

DATTARIA RAMCHUNDEE'S EXAMINATION

Dattaria Ramchunder, examined by Mr Inverarity, said I am employed in the Fouzdarree. It is my business to give out instructions to the karkoon to give out poison when I receive orders to do so. I remember this application (exhibit Z 1 already put in) coming to me for arsenic. It bears my endorsement. No arsenic was given out in respect of this application. When this note was received, Jugjeewundas karkoon made an endorsement upon it in my name. The application remained in the Fouzdarree. It remained there until it was sent for by Jugjeewundas. He is the head of the Fouzdarree department. It is about three weeks ago since he sent for it.

DATTARIA RAMCHUNDER'S CROSS EXAMINATION

Cross examined by Sergeant Ballantine. What is the rule about delivering out arsenic or other poison? —A report on the kamdar's note is received, and then the karkoon makes an endorsement upon it in my name, and I used to give it to the karkoon.

Was there any difficulty in obtaining the arsenic from that order? —Would the arsenic be delivered out upon that order? —There was no difficulty, but he did not come to ask for it, and therefore it was not given out.

There is, is there not, an actual order by the Gaekwar for the delivery of that arsenic? —So it is written in the note.

And as a matter of fact for the last 18 months has it been the invincible rule that there should be the Gaekwar's order before any poison should be given out? —Yes, such is the order.

The President. The order was what?

The interpreter. That arsenic or other poison is not given out unless an order is given from the Gaekwar.

DATTARIA RAMCHUNDER'S RE EXAMINATION.

Re examined by the Advocate General. What do you call the Gaekwar's order? —This note does not contain the Gaekwar's order.

The President. This note. What is that?

The Advocate General. Exhibit "Z 1".

Witness. In the year 29 an order was issued.

The Advocate General (to Sergeant Ballantine). You have got that.

Sergeant Ballantine. Yes, I remember. Eighteen months ago.

Re examination continued. The Maharajah's name is mentioned in the document. Is it not there in Bulwantri's endorsement? —It is stated in the endorsement that the Sircar Maharajah has given permission.

This is stated in the endorsement to you? —Yes.

"As the Maharajah has ordered an order to be given for two tolas said should be given to Damodhar Punt and price take 1? —So it is stated.

Sergeant Ballantine. That is dated 5th October 1874.

BHOW POONEKUR'S EXAMINATION

Ramcrishna Sadashoo, commonly called Bhow Poonekur, examined by the Advocate General said I have been a resident of Baroda about thirty years. I am at present employed in connection with the business of Meer Zoolifukker Ali on behalf of Mr Hope. Meer Zoolifukker Ali is the son of Jaffer Ali, Nawab of Surat. He is a ward of the British Government, and has estates in the Baroda territory. Besides looking after the business of Meer Zoolifukker Ali's estates, I do other business besides. In the same way as I do this man's business I do business for a number of sowars and Sirdars.

Sir Richard Couch. As agent?

Witness. Yes, as agent.

(Examination continued.) I knew Colonel Phayre. The Dewan Sahib, Nana Sahib Khanwelkur, introduced me to him. I was in the habit of seeing him when he was Resident at Baroda. I got a letter from Mr Hope to go to Colonel Phayre in relation to Meer Zoolifukker Ali's business, whose case was then going

on at Surat I saw Colonel Phayre on that business, and sometimes I may have gone on other business I live in the city, in a quarter called Rowculla sometimes when Colonel Phayre asked me I was in the habit of giving from time to time information of what occurred in the city That was when he returned from his walks I generally went to see him at ten or eleven o'clock in the morning I never received any payment from Colonel Phayre for the information I gave him I remember hearing of the attempt to poison Colonel Phayre on the 9th November I did not hear of it on that day, but on the following day, at ten or eleven o'clock, when I went to the residency I heard of it at the Residency from Colonel Phayre After I had heard of the attempt I gave him some information on the second or third day after the day on which Colonel Phayre mentioned the matter to me I told Colonel Phayre that a man named Bulwantrao had said he had heard that three things were mixed with the poison that was given Colonel Phayre The three things were copper powder, arsenic and diamond powder (The interpreter He calls it diamond sand)

Mr Melvill He used the word keeta'

The interpreter No, 'ratee'

The President You say that the witness used a word equal to sand?

Interpreter Yes, "ratee"

The President You are quite sure? Ask the witness again

Question put. Interpreter Now he said thin powdered diamonds

The Advocate General At first he said *heera ka bokke*

The interpreter And then he added *ratee* as a sort of explanation

Mr Jardine He said "*chota, chota, chota heera ka bokke*"

Witness continued I communicated what I heard from Bulwantrao to Colonel Phayre. In fact, I took Bulwantrao with me

The President You took him to Colonel Phayre?—
Witness continued Yes, I introduced him to Colonel Phayre Bulwantrao said to Colonel Phayre that he had heard it contained diamond powder or sand, arsenic, and copper powder

Mr Melvill (to interpreter) What word does he use?

The interpreter "Choora"

Mr Melvill What does it mean

The interpreter Powder

Witness continued Bulwantrao is a karkoon under Bapoo Sahib, and he is in the habit of coming there (meaning the residency) every day Bapoo Sahib is the son of a kept mistress of Khunderao Maharajah Bulwantrao told me this at the Residency office

BHOW POONEKUR S CROSS EXAMINATION.

Cross examined by Serjeant Ballantine Do you remember the enquiry that took place before General Meade?—Yes

Were you active in getting up cases against the Gaekwar?

When the interpreter had put the question Mr. Melvill said You put the question wrongly. It

was not before the Gaekwar "but against the Gaekwar."

The interpreter I said that—

Mr Melvill You said Gaekwar *le samne*

The interpreter That is the word we generally use for "against"

Sergeant Ballantine Just ask him this I am not going into a long cross examination Did he act against the Gaekwar in that enquiry?

The witness I was obliged to do that which was necessary regarding the rights of parties

The President Tell him that is not an answer to the question

The witness In regard to cases in which people were deprived of their rights, it was against the Gaekwar

Sergeant Ballantine Do you mean to say you ever acted in favour of the Gaekwar?

The interpreter Do you mean in connection with the Commission?

Sergeant Ballantine Yes

The witness At what time do you mean?

Sergeant Ballantine In every case in which you were engaged, were you not against the Gaekwar?—No I did not concern myself in any cases except the two or four cases I took up

Well, that was the question In every case you took up, did you act against the Gaekwar?—It must be held to be against the Gaekwar, because moneys were due to different persons from the Gaekwar

Do not you think you could answer a question directly just by way of change Did you always act against the Gaekwar when you did act? That is a very simple question?—What I did was right and just

Well, you know you won't ultimately have to determine that question Just answer me please On every occasion on which you acted in that Commission, was it against the Gaekwar? You know I will have an answer We must introduce Doomsday again—I did not do anything to injure the Gaekwar.

Answer my question sir On every occasion on which you did act, did you act against the Gaekwar?—In what way do you mean acted against the Gaekwar

Sergeant Ballantine (to the Court) I do not know whether your Lordship thinks that my question is put plainly enough to entitle me to have a direct answer

The President You are entitled to have one, but I do not see how you can get it

Sergeant Ballantine (to the witness) What I want to know is, were the cases you conducted before the Commission adverse to the Gaekwar?—It was not to injure the Gaekwar, but they were what was due to persons from the Gaekwar

Did Colonel Phayre know that you had conducted these cases?—He must have known that

Were you in company, more or less with Colonel Phayre pretty well every day while he was in the Residency?—Yes, even now I go to him

And you were in the habit, although you got nothing for it, of giving him information of what you heard?—What true matters I heard I used to inform him

And he used to listen to you, and encourage you to tell him these stories, did he not?—It was in

his power to listen or not. I was not the only informant. Many persons used to give him information. He did listen, did he not?—He listened not to me alone, but to many others for information.

Of what was going on in the town and in the Gaekwar's palace?—sometimes he used to hear something when he went out. And on his return he used to inquire of me, and I told him what I knew.

Were there other persons who were in the habit of giving him information employed by you?—No, why should I employ them? The sahib used to go out for an airing for a distance of two or three *kos*, and he used to meet different persons.

Very well. Was it you informed him of the *khureeta* that was about to be sent to the Viceroy?—I do not quite remember.

But now try and remember, Bhow Poonekur. Now do—As to *khuretas* the Maharajah sent a number of *khuretas*.

What I allude to is the *khureeta* to the Viceroy requesting the removal of Colonel Phayre—I do not remember having given any information about that *khureeta*.

Will you swear you did not?—I do swear that I did not.

Do you know of it?—How could I know of it?

Am I to understand that you did not know of it?—No, I did not know of it.

How I am just going to call your attention to what Colonel Phayre has said. I asked this of Colonel Phayre. Did you hear from Bhow Poonekur that the *khureta* of the 2nd November was to be sent in to Government? And Colonel Phayre answered "I did." You see Colonel Phayre says it was you who told him about this *khureeta*?—No, I do not remember.

Will you swear you did not?—I do not remember mentioning that *khureeta* to Colonel Phayre.

Did you give him information about other *khureetas*?—If I received information about any particular letter that was being written, I informed him, but as to the substance I could not learn what it was. How could I?

How did you know any letters were being written?—People talked about it in the Durbar, and I heard about it.

Did you know any of the servants at the palace?—I am acquainted with all the people of Baroda.

You know Salim then?—Not further than as coming to the Residency.

Have you never been to the palace yourself to see Salim?—No.

Have you ever been to the palace?—Whenever there was business I used to go, but I have not been there since the Commission.

The President Which Commission?—Colonel Meade's Commission. I might have gone some five or ten times to the haveliee, not oftener than that.

Cross-examination continued. Did you know Damodhar Punt?—From a distance I had no conversation with him.

Now, just tell me who is this Bapoo Sahib you spoke of?—The son of Khunderao Maharajah's kept mistress.

And was he a claimant to the throne?—No, he was a claimant with regard to the allowance that had been given to him.

But do you mean that he makes no further claim, and that you do not know he is making a claim at this moment?—What claim could he have? He is the son of a kept mistress.

Do you know if he is making a claim? Never mind whether it is a right one or not?—He does not claim anything except in regard to his allowance.

Have you been in any scrape with the Gaekwar or the Gaekwar's predecessor? Were you charged anything by the Gaekwar's predecessor?—I was kept under surveillance.

For what?—Mr Salmon, was the Assistant Resident, and Bhow Scindia had given some bribes to Mr Salmon and Bhow Scindia had been dismissed by the English Government.

You can tell me this. I only want a plain answer. Were you ever charged with any offence by the late Gaekwar?—No nor was I examined.

I want to know whether you were charged?—No charge was brought against me.

MR RICHLY'S EXAMINATION

James Bellatt Richey, examined by Mr Inverarity, said My name is James Bellatt Richey. I am Assistant to the Agent of the Governor General at Baroda, and a member of the Civil Service. I remember Damodhar Punt being examined by me on the 23rd and 30th of January last. He gave his evidence in Marathi.

The President (to Mr Inverarity). He made his statement in Marathi. You cannot call it properly giving evidence.

Witness continued I understand Marathi pretty well. As he gave his statement in Marathi I took it down in English and was helped to understand it by the Native Assistant of the Resident, named Muneebhai translating it. I know enough of Marathi to know if the interpretation was correct. I took it down correctly. I took it down rapidly from his mouth and corrected it afterwards. His statement was taken down in Marathi at the same time. I have here the statements taken down by me on the 29th and 30th. They bear my signature and are in my handwriting. I do not think I was present when these statements taken down by me were afterward interpreted to the witness.

Mr Inverarity I propose now, my Lord, to put in the two statements, the 29th and the 30th January.

Sergeant Ballantine I should like to know upon what ground my friend proposes to put these in as evidence. Upon general grounds I apprehend that this is not evidence. I do not know upon what ground my friend puts it.

The President It is evidence here. Looking to the nature of this enquiry, I think we must say that Mr. Richey was competent to investigate it and a statement taken by him is admissible in corroboration.

Sergeant Ballantine I am loath to press an objection when there may be some rule or law here with which I am not acquainted, but in ordinary criminal prosecutions a statement given even before a magistrate is not admissible as evidence.

The President The law here goes much beyond that. The law of the Evidence Act, which I follow in this case, renders it admissible by being given before a competent person, and I think we must hold Mr. Richey a competent person.

Sergeant Ballantine : Certainly, and of course I have not another word to say.

The President : I should add that I think it admissible in a case like this upon principle. Even if I had to judge without the Evidence Act, I should think it ought to be received in a case like this. (To the Advocate General) : Do you wish it to be read now?

The Advocate General : I think it would be better to supply your Lordships with copies of all the depositions, and copies in Marathi to the other members of the Commission, if my learned friend does not object.

Sergeant Ballantine : I should like that. In fact my objection was rather with a view to save time than anything else. There is one deposition I object to being put in, that is Hemchund Puttychund's, which he swears he did not make. I object to that.

The President : Certainly. That cannot be evidence in corroboration.

Sergeant Ballantine : Hardly.

[The depositions were then put in. A portion of the Punt's is given at the end of this report, and the other depositions will be given day by day.]

MR. RICHEY'S CROSS-EXAMINATION.

Cross-examined by Sergeant Ballantine : Is Damodhun Punt under your charge?—No.

Is he under the charge of Gujanund Vittul?—He is under Mr. Souter's charge.

Do you know in whose actual custody he is?—No; I do not.

ABDOOL ALI'S EXAMINATION.

Khan Bahadoor Abdool Ali examined by Mr. Inverarity, said : I am employed at Bombay, in the detective police. I am an inspector. I accompanied Mr. Souter to Baroda in December last. It was the 9th December. I have been in Baroda ever since assisting Mr. Souter in this case.

Sergeant Ballantine : You may stand down.

COLONEL PHAYRE RE-CALLED.

The Advocate General : Colonel Phayre is here, so perhaps my friend will continue the cross-examination on the matter which was postponed the other day.

Colonel Phayre was then called and stepped into the witness-box.

The President : You may sit on the chair, Colonel Phayre.

Sergeant Ballantine : Oh, yes. Take a seat anywhere where I can see you.

Colonel Phayre : Certainly.

Sergeant Ballantine : Colonel Phayre, your evidence was postponed for the purpose of your getting the original to a document to which I referred in the course of cross-examination. Have you got that original?—Yes.

Will you be good enough to produce it?—[Colonel Phayre looked amongst the papers in possession of the Advocate General for it and found it.]

Sergeant Ballantine : The date is May 1872.

The President : The 8th.

Sergeant Ballantine : No, the 4th May.

Colonel Phayre : It is the date of the 7th May, altered to the 4th.

Sergeant Ballantine : It is No. 1023.

Colonel Phayre : It is No. 1023 A. I mean it is 1233 A.

Sergeant Ballantine : Will you hand it to me?

Colonel Phayre (to the Commissioners) : My Lords, may I produce it, it is a Government document.

The President : It is not for me : you must say whether you will produce it or not.

Colonel Phayre : Then if I have not the permission of the Court to produce it—

The President : You have no permission from me either one way or the other. I understood the Advocate General—

Colonel Phayre : I will give any information, but I cannot produce it.

Sergeant Ballantine : Then I understand you decline to produce the document?—I decline to put it into Court, although I will answer questions put upon it.

I understand you decline to produce the document?—I do.

Very well, then I must just ask you whether this is substantially the character of the document?—

"No frauds having been shown to have been committed, it only remains to consider Colonel Phayre's proceedings in this case, and it is with extreme regret that H. E. in Council is obliged to record his unqualified condemnation of them."

Is that a substantial representation of the original document?—Important omissions have been made before that. I cannot say it is a true representation of the original documents.

Do the words occur?—Yes, the words do occur.

Do these words also occur:

"It would seem that Colonel Phayre not only instituted the prosecution of these men prematurely before the accounts had been thoroughly sifted, but that he persisted in doing so against the advice of the Commissioner in Scinde to stay proceedings and after he had been warned by Sir W. Merewether that the accounts disclosed no fraud."

Is that substantially correct?—That comes in after most important omissions from the original document.

I shall leave that to you. You pray put that in if you like. It is not my fault. I asked you to produce the document. Now then do these words occur?

The President : Take time for the Secretary to take down as you read.

Sergeant Ballantine : Shall I put it in after I have read it.

The President : You can mark the words you read.

Sergeant Ballantine : I mean to read every word. [To Colonel Phayre] : Now, do these words occur:

"Throughout this matter, H. E. in Council has no doubt that Colonel Phayre believed that great frauds had been committed, and that he considered the measures he took were necessary to enable him to unravel a gigantic system of chicanery which he imagined was being carried on to the detriment of the State, but it must be admitted that he had displayed great ignorance of matters with which as Superintendent of Frontier Districts he might have been expected to have some acquaintance, and that he has been singularly [Colonel Phayre : signally] hasty and indiscreet in applying to a criminal tribunal before the accounts which he held to be suspicious had been thoroughly examined by competent persons."

Is that also in the words of the resolution?—That also comes in after an important omission.

Listen again

"Moreover, neglecting the advice and warnings of his immediate superior, the Commissioner in Scinde, and persisting in a course which he knew to be opposed to the views of that officer he has laid himself open to very great censure. Zeal and honest intentions are not alone sufficient in a public servant, there must be skill discretion and proper subordination in all these points. Colonel Phayre must be held to have been singularly wanting in this instance. The attitude which Colonel Phayre has assumed with regard to the Commissioner in Scinde in connection with Khetlat affairs has led to his temporary removal from his appointment at Jacobabad, and H. E. in Council with much regret is compelled to observe that the facts disclosed by these papers renders it expedient that he should not be allowed to resume office as Political Superintendent of Scinde Frontier."

Is that also in the resolution?—That occurs, but there are two more paragraphs.

But I have not got it Colonel

The Advocate General I suppose my learned friend undertakes to prove this

Sergeant Ballantine I undertake nothing of the kind

The Advocate General Then I do not know how it can be used

The President So far Colonel Phayre has himself proved it. Colonel Phayre says it is true, but that there are important omissions

Sergeant Ballantine (to Colonel Phayre) There is a matter I wish to ask you about. Do you know Nurroodeen Borah?—I do not know his name, but at the last Commission there was a Porah who had a case I do not know whether it is the same man or not.

That, I believe is the person I mean. Do you know he was a person who had been severely punished by the Gaekwar?—If it is the same it is in connection with what we call the flogging case.

Yes, a relative having been flogged or caused to be flogged by the Gaekwar and he himself was fined Rs 5,000?—He was fined I do not remember the amount

Oh! now, my lord, I beg to say that I have not the least objection that the passages which Colonel Phayre says are omitted in the Government resolution should be put in, either privately or publicly. I do not want the document read or to be made public, but in any way that Colonel Phayre chooses to employ that document I am quite ready to yield to, to submit to

The President We have not got the answer about the Borahs.

Sergeant Ballantine He says the Borah was himself fined, and that his relation had been flogged, and that was what they call the flogging case in that Commission, (To Colonel Phayre) Do you know that Nurroodeen was one of the persons complaining against the Gaekwar?—He was at that time

The President And complained against the Gaekwar at the Commission of Enquiry?—I am not certain of the name. I believe he is the man.

COLONEL PHAYRE'S RE EXAMINATION

Re-examined by the Advocate General I understand that the passages read to you are extracts from a Government resolution?—They are extracts

That the original Government resolution contained important passages which have been omitted from the paper read by my learned friend?—Yes

The date of the resolution was the 7th May altered to 4th?—Yes

At that time were you in India?—I was in England I became President 1872, I think?—Yes

The Advocate General Yes Before that resolution was passed had you an opportunity of appearing or giving an explanation in regard to that to which the resolution deals?—I did not know of the resolution

But you can answer my question. Had you an opportunity given you of explaining that to which the resolution refers?—Not specially. There was a long correspondence about it many months.

When were you furnished with a copy of that resolution?—On my return from England in November 1872

Was that copy supplied to you on your own application?—That copy was supplied to me on my own application to Government.

It had not been furnished you in the ordinary course of business?—It had not been furnished to me in the ordinary course of business. I heard of it accidentally and applied for it

Upon obtaining a copy did you furnish a copy in regard to that resolution?—I furnished an explanation in two statements dated the 8th and the 14th November

The President What was that?

The Advocate General When Colonel Phayre heard of that resolution, he wrote for a copy of it and then gave an explanation in two statements dated the 8th and the 14th November

And thereupon a resolution was passed exonerating you from the censure expressed in the resolution from which extracts have been read?—Yes

I do not wish to ask you the reason but that resolution had nothing to do with your not joining your appointment in Scinde?—That resolution had nothing to do with my not joining my appointment in Scinde

The censuring resolution, I mean.—The censuring resolution

Were you on your return to India passed to Palanpoor?—From the day I arrived I received my full pay—in amount I mean—as when I was on the Scinde Frontier up to the time I arrived in Baroda

Was your appointment at Baroda one of superior emolument to the one you had held in Scinde?—It was

And it is reckoned to be an appointment of superior importance to the one at Scinde?—Yes

In the resolution of the 4th May one which would be in the ordinary course of business communicated with the Gaekwar or any native prince?—Certainly not.

Sergeant Ballantine Perhaps your Lordship would allow me to call Colonel Phayre's attention to the matter which I asked him about. Colonel Phayre, the person that I desired to know about was Borah Nurroodeen Merkin, medicine seller to the Baroda Government, and he appears to have been examined and taken formally before you on the 5th January 1874. That is the person?—Yes, that is the person.

Sir Richard Meade : May I ask for the report with the case marked ?

Sergeant Ballantine : Certainly. (Copy of report of the Baroda Commission handed in.) It is schedule 2 ; page 2, case 29.

GUJANUND VITTUL'S EXAMINATION.

Gujanund Vittul, examined by the Advocate General, said : I have the title Rao Bahadoor. I have it from the Sircar. I am first-class police inspector at Ahmedabad. I have been employed on special business with Mr. Souter in connection with the investigation of this poisoning matter. I came to Baroda on the 10th December, and I have remained here ever since, with the exception of visiting Ahmedabad for a day or two during that interval. I remember the day on which His Highness the Gaekwar was placed under arrest. On that day I went to the old havelie in company with Captain Jackson. We went at about nine o'clock in the morning or eight o'clock. All round the havelie I stationed guards, sentries ; and in all places where there was property, goods and articles belonging to the Gaekwar Sircar, such places were sealed up. Among other places seals were placed on the jewel room and on the khangi or private treasury, and accounts and papers were sealed up. The accounts and papers in the khangi department were sealed up in the presence, I think, of Captain Jackson, as well as the persons who were there. Perhaps Damodhur Punt was present. I did a great deal of work that day, and therefore I cannot remember. These papers of the khangi department remained sealed up for two or three days until they were brought to the Residency. I mean some of them were brought. Even now there are some of the papers sealed up at the havelie. I mean some of the khangi or private department. The dufter was sent for to the Residency, and it was kept in a tent under the guard of the police.

The President : What was sent for ?

The Advocate General : The dufter he calls it, my Lord ; these paper from the khangi.

Witness continued : Even now it is so kept. The seals were broken in my presence. I do not remember the day. Karkoons belonging to the private department were present when the seals were broken, but Mr. Souter was not present ; he did not come till afterwards. The names of the karkoons were Bulwantrao and Mahadeorao. I did not remember anyone else. [U1, VI, WI, and XI, already put in were again produced.] These papers produced were amongst the papers. The ink splotches now on were there when I took them out, and it was in consequence of that I showed these papers to Mr. Souter. I remember Damodhur Punt being arrested. I first saw him after his arrest about fifteen or twenty days after. When I saw him I had conversation with him. I said to him, " If you give a correct and true statement to Colonel Pelly, you will get a pardon. If you give a true statement, Colonel Pelly will pardon you."

Mr. Melvly : " If you tell all the truth, Colonel Pelly will give you a pardon." That was his answer.

Witness continued : I showed him the section of the Criminal Procedure Code respecting the granting of pardons. That was for his information in order that he might know all the principles relating to grant of

pardon. I further told him Nanajee Vittul and others had confessed. [The interpreter : Or acknowledged, it may be translated either way.] Afterwards Nanajee Vittul was made to stand outside the tent and he said " I have declared everything that was true. Whatever matter was I have told the whole truth." That was all he said. Damodhur Punt said " I will consider about it, and give you an answer regarding it." It was about ten o'clock in the morning.

The Advocate General : Perhaps we may break off here, my Lord.

The President : Yes, if you like.

The Court then adjourned for tiffin.

When the Court resumed its sitting, the examination of the witness was continued as follows :-

The Advocate General : You have told me about having seen Damodhur Punt in the morning and showing him the books and so on, when did you see him after that ?

The witness : I next saw him about two or three hours after. He gave his deposition after Sir Lewis Pelly had given him a pardon. He was sent for to the tent where I saw him. Sir Lewis Pelly was in the tent. He gave him a certificate. Then Mr. Richey took down his deposition in writing in the same tent. I know a witness of the name of Hemchund Futtichund. I first saw him in regard to this matter before Damodhur Punt had made his statement.

The Advocate General : How long before ?

The witness : There is one circumstance in connection with this —

The Advocate General : How long before did you see him ?

The witness : I saw him in connection with two matters.

Question repeated.

The witness : It may have been five or six days before. There is no truth in his statement that I made him give his statement by zoolom. It is false that I wrote down what I liked and then made him sign what I had written. It is not true that I threatened to imprison him unless he signed what I had written down. I used no threats of any kind with him in regard to what has been taken down as his evidence in this case. I did not take forcible possession of his books. He produced them with his own hands. The statement of Hemchund Futtichund was taken before Mr. Souter. I was then present. I remember that after the statement had been taken down by Mr. Souter, Hemchund was taken before Sir Lewis Pelly. I did not say to him when he was taken before Sir Lewis Pelly that he must sign his statement, and if he did not I would put him into prison. I used no threat to make him sign his statement before Sir Lewis Pelly. (Exhibit A 1 is shown to the witness and the two entries of the diamonds and the one of the ruby ring pointed out.) There are three entries of diamonds. None of those entries were written by my direction. I do not quite remember when I first saw this book. Hemchund first brought it to me. These entries were in the book when he brought it to me. I have not caused or allowed any pages to be taken from and others to be put into this book, but that has been done. It had been done before I saw the

book. Before I saw this book, it seems, to me alterations have been made. Since I first saw it no alterations have been made. Old leaves appear to have been removed and new ones to have been put in at the end of the book. I remember Nursoo the jemedar being apprehended. When he came to the Residency he was taken up by orders of Mr. Souter. I do not remember who took him up. I did not, but he was apprehended in my presence. After Nursoo was apprehended he was confronted on the next day with Rowjee in my presence. I was sitting with Nursoo on the maidan opposite the Residency, and I was questioning him about this case.

Mr. Melvill Does he say he was sitting?

The witness I was sitting with him, and the Khan Sahib was also present. Both Akbar and Abdool Ali were present. I had given instructions to Rowjee. I said "You should not say anything further than this, that you have stated everything connected with this, case." That was what Rowjee said when he came there, and he added "I have said up to this" (pointing to his neck). He said nothing more. I said nothing to Nursoo of what Rowjee had said. It was in order that Nursoo might not know the particulars that Rowjee was cautioned in the manner I have mentioned. No other police officer to my knowledge told Nursoo what Rowjee had said.

GUJANUND VITUL'S CROSS-EXAMINATION.

Cross-examined by Sergeant Ballantine. What you wanted was to elicit the truth merely?—About what?

Why, about the case. When you confronted these two people together all you wanted was the truth?—Yes

Now supposing Nursoo had denied everything, what then?—If there was no further proof against him he would have been released.

Do you mean to say you would have released Nursoo?—Yes, upon receiving the sahib's order.

Just tell me this, when you went to the palace you seized all the papers as I understand?—Yes

Did Mr. Souter, or any person in authority see the papers until they had been in your possession some two days?—At the time the seals were broken I saw them and Mr. Souter saw them.

That is not the question put to you. Be good enough to answer it. Were the papers in your possession and seen by you for two days before Mr. Souter saw them?—When I examined these papers I showed them at that very time to Mr. Souter.

What do you mean by "at that very time"? Do you mean he was present when you examined them?—As soon as I noticed I sent for Mr. Souter.

How long had you possession of the papers before Mr. Souter saw them?—They were not in my possession at all, they were under a guard of police and military.

Now, my good friend, just understand me for a moment. You know you opened all these papers. How soon after you had opened these papers did Mr. Souter come?—As soon as I noticed

But what do you mean by immediately?—Ten or fifteen minutes.

Now just attend to me for a moment. You seized these papers?—Yes.

How long was it after you had seized these papers that Mr. Souter saw them?—I should like to understand to what papers you refer.

I mean all the papers that were found in the palace—The whole department of papers was sealed up at the palace.

I ask you how long you had possession of them, whether they were sealed up or not?—By possession do you mean the Residency seal?

The President I am not sure he has ever said he had possession of them.

Sergeant Ballantine I will ascertain that. [To the witness] After you had seized the papers what became of them?—What papers do you mean? I should like to know that.

All the papers you seized in the palace—I did not seize any papers in the havalee, but they were left where they were, and they were sealed up.

You say they were left where they were and were sealed up. Who had any access to them but yourself?—I could have access to them, or Captain Jackson if he chose.

Did that apply to all the papers?—What papers do you mean.

All the papers that you had seized?—During the time the papers were under attachment no one but Captain Jackson and myself could have access to them.

And about a quarter of an hour after you had examined them you say Mr. Souter came?—Yes.

That was after you had examined them?—As soon as I observed one obliterated with ink I went and told Mr. Souter, and then the further examination took place and everything else was discovered.

Now what is it you say is the falsification in this book that has been put into your hand?—It appears that some original accounts that were written in the book have been removed.

Show us what you mean—Observe this. The previous writing is different from that one line.

And what do you conclude from that?—I have another reason.

But first tell us, these leaves are attached together, and apparently consecutive, were they in that state when you seized them?—Yes, in that state, with the exception of being less soiled by handling.

Well, what is there in that entry that makes you think it is falsified?—It appears to have been newly written.

Now you charge that book with being false, and one of the reasons you give is that entry?—That is not the only reason, there are plenty of reasons.

But what is there in that entry that is suspicious?—I did not say there was anything suspicious in this item. It was necessary to make alterations in another place, therefore.

Now look here, you have selected these leaves when I asked you to point out your grounds for saying there was a falsification of the books. Now tell me what there is in it?—I do not say that anything false has been inserted in this leaf, but this book has been altered in one place for the purpose of removing one account.

Mr. Melvill The answer he really gave, and which he gave before, was this "It was necessary to make this addition to cover an alteration in another place,"

Sergeant Ballantine Well, that is one place, now show us the other.—You please notice this that there are sets of leaves all together, not torn and separated, and several of these leaves are torn. You please count how many of these leaves are connected together, and how many are not connected.

The Advocate General (to the interpreter) You to me give that quite right What I understand him to say is that these books are made up of so many sets of pages each, just I think he calls them, and if you look at the other juz, you will see they contain the right number of leaves, but this just does not.

The witness In the latter part of the book the juz is not made of the proper number of leaves stuck together, as in the other parts of the book.

Sergeant Ballantine Now, I want to know what is your suggestion. What do you say is the falsification?—That the account regarding the diamonds, where it was entered, has been altered.

But you have got the two entries which are quite in accordance with your own wishes?—These entries were made subsequently.

That is just what I believe myself. But what do you mean by "made subsequently"?—The original page and date and entry was in another place. That leaf has been removed.

I do not quite understand you. Just show us where you say the other leaf has been removed?—A page has been removed from the place where the number of leaves were together.

Just be kind enough to show me. You know what your case is, that these diamonds were bought on the 6th and 7th, and you have that entry there.—There is an entry, but that entry has been subsequently made, the original entry has been removed.

Well, just point out the portion of the book from which you say any page has been removed which you suppose could contain a previous entry?—The sets of leaves in one place are torn.

Just point out where you say there was an original entry.—As to that place, I have not seen it, but my idea is that leaves have been removed from the place where the set of leaves is torn.

Now show the place.

The President Is that the book in which he says the new leaves have been put in?

Sergeant Ballantine Yes, that is the book which he says has been falsified.

The President It seems to come to this, that each party says the other has made an alteration in the book.

Sergeant Ballantine That is so, but this witness professes to say that there have been entries taken out and others substituted (To the witness) You have asserted that entries or leaves have been expunged?—Yes,

Now I require you to tell me your grounds and to point out to me where you say these leaves have been taken out, or these entries have been erased

Mr. Melvill Tell him to show it.

The witness Pages have been removed from here (points out a place).

The President Let a mark be put there.

The interpreter initialled the page.

Sergeant Ballantine (taking the book) This is the old affair This is what we had long ago Why do you say pages have been removed there?—Because the pre-

vious writing is of a different character and in different ink, and when these leaves were removed fresh writing and fresh ink were put in

Mr. Melvill He said in short that the ink on the first page was old, and the ink in the second page new.

You say pages have been taken out there?—Yes, the pages have been altered from here

Sergeant Ballantine (to the interpreter) Now, just get the dates of these early entries.

The interpreter Ashud vud the 14th, that is the 11th of August. There is also an intercalary month in that year of the same name. That would be the 12th of July.

Sergeant Ballantine Now tell me what is the date of the next page

The interpreter Tuesday the 1st of the 2nd Ashud vud, that is the 14th of July.

Sergeant Ballantine (to the witness) Who is the head of the jewel department now in the palace?—By "now" when do you mean?

Now, now, now—Now the department has been entrusted to Gunputrow Mahajun

Does he happen to be a near relative of yours?—He is the father of my son's wife

Now you do not misunderstand my question at all, just let me ask you whether it has been suggested against you that you have made evidence on former occasions?—What do I know of that?

You have an interest in your own respectability, you know. Have you been charged by judges with manufacturing evidence?—I do not know of any such charge having been brought against me by a judge.

You never heard of such a charge being made against you by a judge on the bench?—Not in all my life.

Now just tell me, were you engaged in the Kothi Succession Case?—Yes, I was

You were the principal policeman in it?—Yes, I investigated that. I did the police part of it.

Was it originally brought before Mr. Coghlan?—I did not enquire into the case that was before Mr. Coghlan

Do you mean you were not the principal policeman in the case before Mr. Coghlan?—I was not the person who enquired into the case

Were you the policeman engaged in that case?—I was not concerned in that, it was not in my district.

Do you mean to say you were not the policeman engaged in that case under Mr. Richey?—On one occasion I went with Mr. Richey.

Mr. Melvill He said before Mr. Coghlan.

Sergeant Ballantine (to the interpreter) I wish you would give the whole, you missed Mr. Coghlan's name altogether.

Mr. Melvill Ask him if he went before Mr. Coghlan.

The witness If I understood your question I would be able to answer it satisfactorily

Sergeant Ballantine Well, satisfactorily perhaps, I do not know to whom. Were you the policemen engaged in that case when it came before Mr. Coghlan at Ahmedabad?—I did not conduct the whole enquiry. I might have done one matter in connection with that case, and was perhaps sent for on that account.

Now, Mr. Gujanund, I know you are treating me with utter scorn. I can see that I will get it out of you—I must know the particulars.

I do not mean to tell you the particulars I say, Mr Gujanund, do not be modest. Were you the principal policeman engaged at that time?—I was No 1 among the policemen that went up in that case as witnesses

Do you mean by No. 1 that you were the principal policeman?—I was the person who had the largest salary of the policemen who were witnesses in that case. What were you called at that time? What was your dignity, or rank?—I will tell you the designation of my office if you will give me the year.

I am speaking of the time you were before Mr. Coghlan, in 1870.—In 1870 I was first-class Police Inspector

Now do you remember Mr Coghlan saying "A disagreeable impression remains on my mind that the police had too much to do with getting up the evidence?"—I did not make any enquiries about the witnesses in that case.

Did Mr. Coghlan make that observation to you? I dare say Mr. Coghlan was quite wrong?—It would not apply to me, for I did not make the enquiry in that case.

The President Did he make that remark?

The witness If he said anything of that kind, he would do it in his office. What do I know about that?

The President Did he say that?

The witness I cannot recollect everything. If anything concerns me I might remember it.

Sergeant Ballantine But if it did not concern you, whom did it concern?—the police people who made the enquiries about the matter

And you do not think that observation, if it were made, applied to you at all?—No, it does not apply to me, it applies to those who were concerned in the enquiry

Well tell me this. There was a further enquiry made in the Kothi Succession Case, just tell me if these words applied to you. This is at a later date a great deal, I think it was in 1873. You remember the case tried before Mr Justice West?—less I was not present at the trial before Mr Justice West,

But you were the policeman conducting the case, were you not?—I was not there. I was concerned in the committal of the case before the Sessions

Do you mean to say in the case tried before Mr Justice West you had nothing to do? Is that what you swear? If you say yes it is quite enough for me—I prepared that case here, but I was not present at the trial that took place before Mr. Justice West

Well, do you know that Mr. Justice West said regarding the 'preparation of that case, as you call it' "The Government of Bombay, which seems to have taken much interest in the case, has clearly been imposed upon, for I have met with no other in the course of my experience that bore plainer marks of falsehood and fabrication?"—What is your question?

My question is whether you know that Mr Justice West from the bench, in delivering his judgment, made these observations?—I was not present. How can I tell you of my own knowledge?

Do you not know, or have you not heard that Mr Justice West made observations of that kind?—I might have heard or I might not have heard. Justice, West has been imposed upon by the defendant (laughed), and I have received proof of this lately, and I

am ready to produce it before the Court if the Court orders me to do so.

GUJANUND VITUL S RE-EXAMINATION

Re-examined by the Advocate General Between the time these papers were locked up and sealed up in the palace, till the time you began your investigation of them by breaking the seals at the Residency, had you any access to these papers?—I did not go to have access to them.

Mr Melvill [to interpreter] You did not say till the seals were broken, but till the time of searching Question repeated

Mr. Melvill No, no. Had you access, not did you go. Sergeant Ballantine To have access is tantamount to having access. The question is whether he made use of it.

The President You had better say, did he do anything with the papers.

Question again put. Witness I had done nothing with them.

The Advocate General How long had you been examining the papers at the Residency before you found these ink marks to which you drew Mr Souter's attention?—I do not quite remember

About how long?—An hour or half hour

Were the karkoos whom you mentioned present during the whole of that time?—I was superintending and it was through them that the examination was made

Were they larkoons who had been employed in the Khaangi department under the Gaekwar?—Yes, it was they who examined, and I superintended

And as soon as you saw that ink mark you say you went for Mr Souter?—Yes

And he came in ten or fifteen minutes?—Yes, he came immediately

Now as I understand you to say This book is made up of a set of a series of pages which I think you called juz?—Yes, a set of juz

And how many pages are there in a juz?—That depends upon the size of the paper

Well in that book?—There are six leaves in each juz

And how many perfect juz are there? Are there six of these juz that are not split up?—(Book handed in) Here is the place where the book is not split up. There were six above that

Sergeant Ballantine Hemchund Puttchund was never asked a question about this point of the book in which it is said pages were taken out. He was only asked as to the last pages

The interpreter The place where the entry occurs which I have initialled is in the fifth juz. The fifth juz are entire and the last is entire and the intermediate ones are not entire

The Advocate General Now does what he calls the old ink and the new ink belong to different entries or to the same entry?

The President It occurs to two members of this Commission that such evidence as this about the book being altered should come through somebody else than this witness. It ought to come through an expert

The Advocate General We have an expert. I propos

ed after my learned friend's cross examination of this witness to call an expert [To witness] Now a question on the branch of this Koth case that was tried before Mr Coghlan Were you concerned otherwise than as a witness?—I was not concerned in preparing the case I was only a witness

And on the occasion you went with Mr Richey?—I went to Koth

When was that?—With Mr Richey

And your evidence was in relation to that visit to Koth?—Yes

It was now half past four, and the Court adjourned

FIFTEENTH DAY.

BARODA, MARCH 13

YESTERDAY forenoon, at eleven o'clock the Commission resumed its sitting All the Commissioners were present Sir Lewis Pelly and His Highness Mulharao were also present

HURJEEWUNDAS PURSHOTUM'S EXAMINATION

At the sitting of the Court the first witness called was Hurjeeuwundas Purshotum Examined by Mr Inverarity he said I am head karkoo of the Gujerat accounts in the Collector's Court at Ahmedabad I am acquainted with the way in which native books of account are made up Sheets of paper are made up into juz (sets) and then they are bound up For the most part a juz is made of six or nine leaves If a book is made up of juz of six leaves it will be of six leaves throughout if of nine leaves it would be nine throughout It would not be made up of two numbers I have seen this book (Exhibit A 2) It is made up of juz of six leaves, but in two juz the leaves are broken In each juz the leaves are generally split up to the end from beneath the string, and above the string is generally not cut up

Mr Inverarity In order to remove two or three pages, would it be necessary to cut up one juz?

The witness If they were removed from the middle it would not be necessary to cut them up If a single leaf were removed it would be necessary to cut You could take out a whole juz without cutting at all The first five juz in this book are entire In the sixth juz there is one leaf deficient In the sixth juz there are four leaves that have not been cut up, and there is one single leaf

The President Four pages are not cut?

The interpreter Yes

The President By four leaves he means double leaves.

The interpreter Yes, a leaf of two pages

The President It is not quite correct to call it a leaf, it is a double page

Mr Inverarity Four leaves are two double sheets are they not?

The witness They are made up of one large sheet The seventh juz has two leaves joined together and four leaves are loose

The interpreter That is joined at the top

The President They are uncut above the string and the others are cut

The interpreter Yes

The witness The eighth juz is entire It is the last in the book The seventh and eighth juz appear to be made up of different paper from the rest of the book

HURJEEWUNDAS PURSHOTUM'S CROSS EXAMINATION

Cross examined by Sergeant Ballantine I do not quite follow this witness Is your theory that one or more leaves have been taken out?—A whole leaf out of the sixth juz is missing It is gone

Do you imply that there is one leaf, and only one, gone out of the book?—One is gone altogether

And only one?—One is wanting

Cannot you answer my question? Only one?—Does your question refer to—

You must understand me Is there only one leaf missing?

—If I look to the new leaves, thirteen leaves have gone altogether Thirteen have been removed and twelve, new ones put in

And one altogether missing?—Yes

Do the twelve new ones put in contain any entries?—Yes There are writing on the first six leaves out of the twelve

And are the other six blank?—They are blank

Now, what would be the number in the book of the missing leaf what would be the date of the entries if they were found in their proper places?—On the preceding pages the date is the last day first year of first month of Ashud

Tell me when is

The interpreter Yes, I will (Referring to the TIMES OF INDIA Calendar) The 13th July last.

Sir Richard Meade On the preceding page of what?—The page preceding that from the part where one leaf is missing

Sergeant Ballantine I was asking about the one leaf out of the thirteen There is one leaf out of the thirteen entirely missing and the other twelve supplied The other leaf supplied follows 13th July Now, whether upon leaves he supposes to be interpolated are made the entries, supposed to be made, namely, the 7th or 8th November Show him these entries, Mr Interpreter

The interpreter What item do you wish me to point out to him?

Sergeant Ballantine The two items, one in relation to diamond chip, and the other in relation to the ruby ring

The interpreter They are on the seventh juz which has been newly put in

The President Are these entries marked?

The interpreter Yes my Lord, marked A 2

The President The date?

Sergeant Ballantine 7th and 8th

The interpreter Ashud 14th

Sergeant Ballantine That it is Either the 7th or 8th It is one of the forty eight hours days?

The President He says they occur where the new leaves are put in?

The interpreter The seventh juz or set which has been newly put in

The President The seventh juz or set which has been newly put in?

The interpreter Yes my Lord

Sergeant Ballantine Now as to the ruby ring, does that also occur upon the substituted page?—Yes

Sergeant Ballantine It does

HURJEEWUNDAS PURSHOTUM'S RE EXAMINATION

Re examined by the Advocate General Just point out in what part of the book the left is missing the missing left of the sixth?—The witness pointed out the place by inserting a lead pencil in the book and continued It is between the two where I have put a pencil through The left between these two is missing

Where the entry is in two different inks?—Yes

Mr Nowrojee, the interpreter here pointed out where he had put his initials to the entry which Gujanund Vitthal showed where the entry was begun in old ink and continued in new

MR SOUTER'S EXAMINATION

Frank Henry Souter examined by the Advocate General, said I am a Commissioner of Police and Companion of the Star of India On the 9th December last I came to Baroda to make enquiries into the attempt which it was alleged had

been made to poison Colonel Phayre. I had with me my two assistants, Khan Bahadoor Akbar Ali and son Khan Bahadoor Abdool Ali, and Rao Bahadur Gujanund Vitthal. I must correct myself. Gujanand Vitthal did not come until a few days afterwards. I remember perfectly well examining the ayah Ameena in reference to this matter. I first saw her on the 16th December at about between five and six o'clock in the afternoon. I saw her in her own room in Mr. Boevey's compound. On that occasion she did not make a detailed statement, and I did not take down her statement on that day. I did not do so because she was very ill and unfit to give any detailed statement. I remember what she said on that occasion. She said she had been to the Maharajah's palace on one or two occasions and had received some money. She had high fever on at the time, and begged that I would come and see her some other time and she would tell me all the details. To the best of my knowledge, before I saw the ayah on that occasion, none of my police had seen her. I took down a statement on the 18th. This is the statement I took down, in my own handwriting. I do not require an interpreter with witnesses who speaks Hindustani. I know the language thoroughly. On the 21st December I took a further statement from the ayah at the hospital (The two statements were put in and marked D 2) Dr. Seward called at the Residency on the 19th, the day after I had taken the ayah's first statement, and he informed me that the ayah was better and wished to see me, and I accordingly went on the following day, the 20th. She made a further statement which I took down next morning. I had no writing materials with me at the time. I also took the statement of Rowjee. This is the record of the statement I took down in my own handwriting. It is taken on the 24th, 25th, and 26th.

The Advocate General I see there is a postscript to this of your own, will you please remove that and give me only the statement. (The statement was put in and marked E 2.) Witness I also took the statement of Nursoo. This is the statement taken by me in my own handwriting on the 20th of December.

The Advocate General On the last page there is some note of Mr. Souter's. I will ask that Mr. Jardine be good enough to have the end of the statement copied and put in. (The statement was put in and marked F 2.)

The witness I think Nursoo was apprehended on the 23rd. He was placed under the military guard of the Resident, and he has remained under that guard ever since. Before he made his statement no promise of pardon was held out to him. Before taking his statement I reported to Sir Lewis Pelly that the jemedar was to make a confession and I should like him to hear it. Sir Lewis Pelly came to the room where I carried on my inquiries, and he explained to the jemedar distinctly before he made any statement that he would not be pardoned, but, on the contrary, Sir Lewis Pelly assured him that he would be prosecuted. Thereupon the jemedar took off his turban and laid it at Sir Lewis Pelly's feet, and he said that even, though he might be hung he wished to tell the truth and make a statement of all that had happened. After that he made a statement and was removed to the guard. It was not taken down that day. Sir Lewis Pelly, myself and some others were present. I took down his statement on the 26th. I think he made the oral statement on the 23rd. The room in which I conducted my enquiries was the present dining-room at the Residency. I occupied as my own room—a room adjoining the dining-room separated by a chink. I remember the day on which Rowjee's belt was examined. That was on the 20th, Christmas Day. The detective sent for the belt when I went to wash and dress for breakfast. I think the belt was sent for before I retired. The detectives were at that time in the dining-room at the Residency. About ten minutes or a quarter of an hour after I had retired one of

the detectives called out to me. On my return they showed me the belt and said there was a piece of paper. I could see the paper at the bottom of a kind of pocket. I saw some of the threads broken. The paper was taken out and opened by me. I found it to contain a white powder. I put the paper and powder in an envelope, docketted it, and sealed it and took it down to Bombay myself. I was not in Baroda when the first statement of Damodhar Punt was made. After my return to Baroda, Damodhar Punt made some further statements to me. That was on the 3rd, 4th, and 5th of February. These are the statements taken before me in my own handwriting.

(The statements were put in and marked G 2.)

I remember some native accounts with ink blotsches being shown to me. That was about the 20th February, or it must have been some time in January. One packet of the accounts was brought to me at my tent by Gujanand Vitthal, and he asked me to come into the tent in which the records were all kept as they were then being examined. It was a different tent from mine. There were several karkoos or native clerks at the time examining the books. I sat in the tent for some time, and while there I found other account books over which ink had been similarly split. The karkoos whose duty it was to write up these books were present and it was found by them. The karkoos to whom I refer were karkoos from the haveli. I remember the name of one of them. It was Bulwantrao. I remember perfectly well taking the statement of a witness called Hemchund Fattychund. The statement produced is the one I took. I took it on the 6th February in Colonel Baikon's office in his compound.

Sir Richard Meade What is the date?

Witness 6th February. The statement was given in Hindustani. At the same time I took down a statement in English there was another taken down in Guzerathi or Marathi. I forget which. It was in the vernacular. I asked him if he knew Hindustani, and I conducted my conversation with him in that language and wrote his statement myself.

Sergeant Ballantine In Hindustani?

Witness No, in English, but I had no interpreter. After it was taken down in the vernacular, to the best of my belief it was read over to him. I remember that he signed it. Not the slightest threat or zoolum was used. Besides taking his statement I had some conversation with him. I noticed a strange ring in his ear. It was set in brilliants, such a ring as I had never seen before. Besides the brilliants there were two pearls. I asked him where it was made, and he said Baroda. This conversation was in Hindustani before taking his statement. When I was taking his statement he produced his books before me, and I marked them A, B, and C. I believe I signed the leaves. I believe this is the book Hemchund Fattychund, who was examined the other day in Court, was the man whose statement I took down.

(The English statement was put in and marked H 2.)

The President That is the one Sergeant Ballantine objects to, is it not?

The Advocate General No, my learned friend objects to the Marathi statement, which I propose to put in presently.

The witness Bulwantrao who examined the accounts has not been in custody at all. I do not know his father's name. He was the same man who was examined here the other day.

MR. SOUTER'S CROSS-EXAMINATION.

Cross-examined by Sergeant Ballantine I think I have only one question to ask you. Speaking of Nursoo, I understand you that he was examined and brought before Sir Lewis Pelly and then expressed his readiness to confess? —Yes.

I am Agent in that, am I?—Yes

And you did not then take down his confession?—He made an oral confession, but it was not written down on that day.

And you have no record of it?—Not on that day.

Would there have been difficulty in taking it down then?—Yes, I was very busy then in connection with this enquiry.

It occurs to me—of course I may be wrong—that this is one of the most important matters in connection with the whole enquiry?—One of the most

There could not have been anything more important?—I had a great deal to do. I have a diary or reference to which I will let you know what I had to do that day.

I am quite convinced, Mr Souter, without your diary, that you had a great deal to do. I will not trouble you for the diary. That was the reason you did not take down his statement just then?—That was the reason. I knew he was placed under a military guard, and could not be tampered with.

Do you mean that your police could not have had communication with him if they desired?—I think they might.

If the police could, it occurs to me they might?—I meant outsiders.

Oh! I see you meant nobody else but the police. Three days afterwards he made the statement you took down?—It was the same statement he made on the 2nd, I took it down on the 26th.

GUJANUND VITUL RECALLED.

Gujanund Vitul was then examined by Mr Inverarity. He said I remember Hemchund Uttychund being examined before Mr Souter. At the time he made his statement I wrote it down in Guzerathi (A paper is handed to witness) This is the statement. At that time Hemchund signed it before Mr Souter.

Cross examined by Sergeant Ballantine Was this statement taken down before you went Mr Souter?—No.

Was Mr Souter present when you first took it down?—In fact it was Mr Souter who took down the deposition.

Had any deposition been taken before Mr Souter took it?—After that I took it. I took down notes.

I want to know whether, before he made a deposition before Mr. Souter, you had taken a statement from him?—Not I.

Was one taken in your presence before you went to Mr. Souter?—No, not before me, not in my presence.

What date does he give (hands in the confession in Guzerathi)?—It is dated 8th February.

Are there two dates to that?—You look at it, Mr Interpreter. Is there not a date 6th February?

The interpreter Yes, it is above those three lines which were pointed out to the witness, and which he said were in his handwriting. The date 8th February mentioned there is mentioned in these three lines.

Sergeant Ballantine (to witness) How do you account for these two dates?—On the 6th February the deposition was taken in the presence of Mr Souter.

What is the other date?—On the 8th February Hemchund read over in the presence of Sir Lewis Pelly the deposition that had been taken.

Sergeant Ballantine And then the second date was given. Well that accounts for it.

Re-examined by the Advocate General And that Guzerathi statement in your handwriting was taken by you at the time Mr. Souter took down the English statement?—Yes, the English was first, and this was from the English (The Guzerathi statement was here put in and marked I 2).

The President I understand the witness to say the English was written first, and then the Guzerathi was written from it.

The witness Mr. Souter took down the deposition in English. There were other persons who made a translation from the English into Guzerathi, which I wrote down in Guzerathi.

The Advocate General After you had taken down in Guzerathi that which is written in that paper, was it read over to Hemchund—Hemchund himself read it, and in regard to such passages as he could not read I read them to him.

And after having read it with your assistance, did he put his signature?—Yes, with his own hand.

The President Hemchund spoke in Hindustani, did he not, when he made his statement?—Partly in Hindustani, and partly in Guzerathi.

But you say that other persons translated into Guzerathi. Do you mean they translated from the English or from what they heard Hemchund say?—From the English.

The interpreter It is singular “person” not “persons.”

The Advocate General I now propose to ask a few questions of Sir Lewis Pelly. I suppose he may remain where he is.

SIR LEWIS PLLLY'S EXAMINATION.

Sir Lewis Pelly was then examined by the Advocate General and said I am Agent to the Governor-General of India, and Special Commissioner at Baroda. I arrived at Baroda on the evening of the 1st of December. One of my early acts was to apply for the assistance of Mr. Souter to enquire into the attempt to poison Colonel Phayre, in obedience to instructions I received. Mr. Souter's services were placed at my disposal, and he arrived here on the 1st December. I gave him quarters at the Residency, and he conducted his enquiries in the present dining room. I remember being informed that Rowjee, havildar, had made a statement. I left the enquiry entirely in the hands of Mr. Souter. On the morning of the 23rd he and Mr. Richey came to me. I had been intending to leave for Bombay, for the Christmas holidays on that day, but they informed me that something important had come out in the enquiry, and when I heard what it was I consented to remain. Mr. Souter was to have gone to Bombay on the 21st, but I asked him to remain till the 22nd, to be present at a dinner, and on the 22nd I told him if he waited till the 23rd, I would go down with him. Mr. Souter and Mr. Richey told me of the statement having been made, and I and they had better let me have a look at him during the day, and I would judge for myself. I saw him on that day, and I heard a statement from him. That statement was substantially the same as the statement he has given before the Commission. He was allowed to speak freely before me on that occasion. The next day was Thursday when the Maharajah was in the habit of visiting me. So when I came downstairs in the morning I immediately told Mr. Souter that I should it once communicate to His Highness that his name had been brought into this affair. I think that Mr. Souter then said to me that Nursoo jemadar had also confessed. I told Mr. Souter that when the Maharajah came he must come with me into his presence. Mr. Souter came with me, and what had happened was told to the Maharajah. I then suggested to His Highness to afford every assistance to a searching investigation, and His Highness promised to do so. We then went to work on our re organisation. I saw Nursoo jemadar that day after His Highness's visit. He was sitting in the room which is now my dining room, and I came there by appointment. I reminded the jemadar that the matter on which I understood him to have given evidence was of a very serious nature. And that if he were in it he must not expect pardon, for as far as I was concerned he would certainly have no pardon. I then told him to sit apart and reflect a little, and I told Mr. Souter to explain to him that he should not have pardon. After a little time the jemadar threw himself forward at my feet with his pugree off. He

then said the Sircar might kill or do what they liked with him, but he must speak the truth. He made use of other expressions more explicit than that, which I really forgot. He then made a verbal statement, but I did not allow it to be taken down. That statement was much to the same effect as what I have seen in the printed depositions. I mean the depositions that went to the Viceroy. It was to the same effect as the statement taken on the 25th by Mr. Souter. It was by my desire that the statement was not taken down that day. I said 'Let him go back to his room, do not take it down till he has had time.' As far as I can recollect I took no further notice of the matter. On the afternoon of the 26th, between 5 and 6 o'clock, I was dressing to go out. Walking up and down in my bedroom upstairs I happened to see the jemadar going into the Residency garden with a policeman I afterwards heard a considerable disturbance coming from the garden amongst the trees. There were calls for a rope and assistance. I went downstairs as quickly as I could, and when proceeding from the verandah to the back of the house I saw Nursoo with one or more policemen. He was dripping wet. I asked what was the matter, and the police said he had flung himself into a well.

The Advocate General Had you any conversation with Nursoo?

Sergeant Ballantine Oh! I object to that.

The Advocate General I propose to corroborate Nursoo's account of what took place

The President If you say it is to corroborate Nursoo's account, of course you are entitled to it

Sergeant Ballantine If my learned friend states it is to corroborate Nursoo's account of course, *cadet question*, but if he would reflect for a moment what the account was—

The Advocate General If my learned friend objects to my putting the question I will not put it. It is not of much importance (*to the witness*) Do you know the well in the Residency?—Yes. It is a deep well. I think more than ordinarily deep. It is down to the surface of the water. It is lined either with brick work or masonry, round a portion of it. I saw Nursoo again the next morning, I think it was Sunday. A man who said he was a relative of his sent in a petition for him. This petition reached me when I was at breakfast.

Sergeant Ballantine I am sure my learned friend must feel that is not evidence

The President What is the question you object to?

Sergeant Ballantine Perhaps I am a little premature in making the objection, but I anticipated the question which I thought would be put. I object to any conversation relative to a petition sent in by a relative of Nursoo.

The Advocate General I apprehend anything that goes to show the conduct and demeanour of Nursoo when he made that statement would be admissible evidence as showing the amount of credit to be attached to him.

The President Is what you now propose to ask anything in connection with his demeanour?

The Advocate General Yes, my Lord.

The President He ought to have been asked about it before you asked Sir Lewis Pelly. I think at present you ought not to be allowed to put the question if we are to follow any rules at all in this enquiry. I think we ought to follow some rules.

Examination continued Upon receiving the instructions of the Government of India for the suspension of the Gaekwar from power, by my directions the rooms in the palace were sealed up. I deputed Captain Jackson and a police havildar to do this. I forgot who the police officer was. The more important witnesses whose statements were taken after His Highness's suspension from power were brought before me. I remember among these Hemchund Fattychund. (Exhibit 2 is handed to the witness.) This bears my endorsement. The rule was when a man came to me the day after giving his evidence before the police, he

was asked if he could read or write. The man who acted as interpreter on these occasions was the Subordinate Judge called Deshmook. If a man could read and write he read his statement over himself, made any corrections he had to make, and if there was anything he could not make out in the handwriting he was aided by the Deshmook or any other person present. In every case the statement was either read over by the witness himself or read over to him, by some one before he signed it, in my presence. The rule was that when he had read it or had it read over to him he made a statement below saying that it was true, and he signed that. By reference to my endorsement I can say that this document was read over by the deponent.

The President Have you any doubt looking at the endorsement, that it was read over to him?

The witness None whatever.

Examination continued I knew Damodhar Punt before he was arrested so far that I had seen him, and on one occasion I think I addressed a few words to him. When I addressed a few words to him the Gaekwar had come to call on me, and after the visit was over I accompanied His Highness as usual to the door of my drawing room. I then saw a man standing in the verandah between us and the carriage. His Highness introduced him first of all as *kangee*, and then as Private Secretary. I am not sure whether I then addressed any words to the man or not. I applied to the Gaekwar for the surrender of Yeshwantrao and Salim, and they are now in custody in the Residency premises under a military guard. I sent for them twice. I had first sent for them in the morning, and very soon after they were sent up. They were not detained on that occasion. I forgot about them, and my ghorawalla said I was busy and they went back to the city. The mistake was brought to my notice and they were sent for again. The solicitors to His Highness have been allowed access to them. I do not know a man named Wussuntrao Bhau, but I believe he is one of the men who has been arrested. He is in two or three cases I believe. He is the man who described himself as the Gaekwar's shroff. I have, under instructions from the Government of India, stayed proceedings against them until the decision of the Commission has been come to.

SIR LEWIS PELLY'S CROSS-EXAMINATION.

Cross examined by Sergeant Ballantine Sir Lewis Pelly during the short time the Gaekwar was at liberty. I suppose you saw him number of times?—Certainly. His Highness used to call upon me as a matter of fact nearly every day or every other day.

When you were sent to Baroda, I gather from the despatch of His Excellency the Viceroy, that he felt it required very delicate management to assist His Highness?—My instructions were to endeavour to aid His Highness in the reform of his administration. There was also this incidental instruction, that an enquiry into this case supposed to be commenced by Colonel Phayre was to be finished by me or my order.

Sir Lewis, in your intercourse with His Highness, did you find him amenable to advice?—As far as I am aware His Highness was most desirous of reforming his administration.

My friend has asked you before of Yeshwantrao and Salim. I will call your attention to some documents which I believe are genuine, though Mr. Cleveland has not the original, I will read them to you. You will correct me if I am wrong. I will put in a copy of them supposing they are accepted. The first letter is as follows—

My dear Sir,—Will you oblige me by causing Yeshwantrao and Salim to be sent to the Residency at your earliest convenience as Mr. Souter, the Commissioner of Police, is

desirous of taking their evidence in regard to the case now under investigation before him—Yours, &c,
Residency, 23rd Dec 1874

Lewis Pelly.

To Dadabhoy Nowrojee, Esq

Sir Lewis did you upon the same day receive the following answer from Mr Dadabhoy Nowrojee on the same date?
Palace Baroda 23rd Dec 1874

My dear Sir,—As asked in your note just received I send Yeshwantrao and Salim for their evidence—Yours, &c

DADABHOY NOWROJEE

Sir L Pelly, Residency.

Was another note sent on the same day, I do not quite know why as follows?—

23rd December 1874

My dear Sir,—I have already sent away Yeshwantrao and Salim to you I hope they are at the Residency by this time I am waiting for a note from you for doing anything further—Yours, &c,

DADABHOY NOWROJEE

Sir L Pelly

Sir Lewis Pelly I presume that must be in consequence of the men having returned to the city

Sergeant Ballantine The next letter was as follows—

My dear Sir—Kindly ask the Maharajah to cause the houses of Yeshwantrao and Salim to be searched, as it is alleged they are concerned in the important case (attempt to poison the late Resident), now before the Commissioner of police

The Commissioner of Police would be very glad if you could arrange for the head of your office conducting the search, and this note will be taken to you by two of the commissioners men whom he would request, might be present at the search—Yours, &c.

23rd December

LEWIS PELLY

Dadabhoy Nowrojee, Esq

Then, my Lord, there follows a note of Sir Lewis Pelly. This was at once attended to by His Highness—

Sir Lewis Pelly Is that mine? It sounds more like Mr. Dadabhoy's. It contains more than I knew at the time
Sergeant Ballantine I beg your pardon It looks like yours in my copy, but I think it must be from Mr. Dadabhoy

Sir Richard Meade Is that also dated the 23rd?

Sergeant Ballantine I am not quite sure I do not think, now I look at it that the endorsement is dated at all

Mr Branson The letter is dated the 23rd

Sergeant Ballantine Here is a letter from Sir Lewis Pelly

Residency, 23rd Dec 1874

My dear Sir,—The Commissioner of Police informs me that the servants of H H the Gaekwar name I Yeshwant and Salim, who you were so good as to send up here to day, have returned to the city without giving their evidence or communicating with him The Commissioner considers that there is a *prima facie* case of complicity already made out against these persons in respect to the attempt to poison Colonel Phayre and the Commissioner hopes that these persons may be made over to the Residency for safe custody pending the termination of the investigation of this important case

My advice to His Highness is to afford every practicable facility for thoroughly clearing up all the circumstances of the case If His Highness please to send a guard to the Residency with the accused, I shall be happy to receive them—Yours, &c.

LEWIS PELLY.

To Dadabhoy Nowrojee Esq

I then there come other letters

Baroda, 23rd December 1873

My dear Sir,—On receiving your note, H H at once

sent for Yeshwantrao and asked him why he and Salim had returned without giving their evidence He answered that he gave my letter to you to one Bala puttawalla, and this puttawalla told him that the Sahib said 'salaam bolo' Yeshwantrao says he asked again the puttawalla whether the Sahib did not want him and Salim as they had been specially to the Sahib The puttawalla said again the Sahib only said 'salaam bolo' Manajee puttawalla also gave the same reply and told them to go

From this it is evident that some misunderstanding has taken place

I had not told these men to go to the Commissioner of Police, but had only directed them to yourself

On my explaining your note to H H he was sorry any mistake should have taken place and immediately ordered them to go to you I send them with this letter to you, accompanied by a karkoon who will hand them over to you H H is ready to give every practicable facility for clearing up the matter—Yours, &c,

DADABHOY NOWROJEE.

To Col Sir Lewis Pelly.

Dadabhoy Nowrojee Esq

My dear Sir—I am obliged by your promptitude in sending Yeshwantrao and Salim to the Residency for the purpose of giving evidence I have requested the Commissioner of Police himself to see that they are accommodated in my office with as little discomfort as possible, and to take their evidence without unnecessary delay to morrow

The puttawalla, if he told these persons to go to day acted wholly without my knowledge

Pray, thank His Highness for his assurance of giving every practicable facility for clearing up this important matter

If you could conveniently meet me to morrow morning at 8 o'clock, I should be glad to see you—Yours, &c,

LEWIS PELLY

Residency, 23rd Dec 1874.

Sir Lewis Pelly The thing is quite simple They came to me instead of going to the Commissioner of Police I was busy and did not see them, and they left and ought to have seen the Commissioner of Police To the best of my recollection, His Highness responded to my application at once

And I believe that when at last suspicion was directed to him he came and offered himself?—Not exactly

Well, tell it your own way?—On the 23rd December was the time I first heard he was implicated On the morning of the 24th, Thursday, His Highness came to see me as usual So, I said before, when he arrived I had the Commissioner of Police with me and told him before him what I had heard I then suggested to His Highness to afford every facility for helping the enquiry, and he promised to do so at once

And from that time till the time he was taken into custody he was not under any restraint?—Who?

The Gaekwar?—Oh! no

I believe that it was intimated that he—No, it was not intimated that—

How did it occur?—I was instructed by His Excellency the Viceroy to arrest His Highness and I did so

As the interpreter was translating the answer Sir Lewis Pelly said I object to the translation of my word being 'puckarowed'. It conveys a meaning of the use of force, or seizing him like a common man, and I object to it.

The interpreter It is the word generally used

Sergeant Ballantine I may be mistaken about it, but did he not come to the Residency?—Yes, he did come, and I explained the situation to him

And I believe he declared his innocence and expressed his willingness to put himself in our custody, but there was some formality which I do not quite understand?—Yes,

I accompanied him to the borders of his own territory, where I again told him of the situation read over to him the Viceroy's proclamation, and arrested him. It was done as politely as possible.

I believe that among other expressions he used, he said he had many enemies?—Yes, that was one of the expressions he used. And, so far as I recollect, he said "I have every earth under me is my enemy."

And since that time—I am not going into the question of the desirability of it or not—since that time he has been practically in custody?—Yes.

The President I did not hear what that question was.

Question repeated.

Sir Lewis Pelly He has been in honourable confinement. I suppose his property has been seized?—The property in the palace has been attached.

The whole of his property?—I had seals put on the palace and all the public places.

Mr. Melville [to interpreter] No, no, *seize* means confiscation, attachment in *Lis alibi*.

The interpreter That word is not known in this part of the country.

Sergeant Ballantine It is not polished Hindostani I suppose he means to convey.

[The interpreter referred to the dictionary and argued in his favour of his rendering.]

The President Their Highnesses the Maharanas of Scindia and Jeypore and Sir Dinkur Rao say they perfectly understand it to mean attachment and not confiscation.

Sir Lewis Pelly May I answer the question in my words, When I entered upon charge of the State of His Highness, I caused seals to be placed upon all the public property for its protection, intending to hand all over to the native administration when there is one.

The Advocate General This completes the evidence which I have to lay before the Commission.

Sergeant Ballantine My Lord my friend has terminated his evidence, and I should not have asked the Commission to have waited for me to address them as I might have offered my observations to the Commission if my friend had concluded earlier, but at this period of the day I do not think it wise to begin, as I might have to stop at an inconvenient time. I have, therefore, to ask permission to begin my remarks to-morrow.

The President You may begin your remarks to-morrow.

Sergeant Ballantine Your Lordship pleasure. There will be a short statement I shall have to put in from the Maha raja before I commence my observations. But the Maha raja requires to give it more attention than he has given to it at present.

The Court then adjourned.

SIXTEENTH DAY.

BARODA, MARCH 15

On Saturday forenoon at eleven o'clock, the Commission resumed its sitting. All the Commissioners were also present. Sir Lewis Pelly and His Highness Mulharao were also present.

MR. SOUTER RECALLED.

On the Commission taking their seats, Sergeant Ballantine said—My Lord, I want your Lordship's permission to ask Mr. Souter one other question. (Mr. Souter stepped into the witness box.) Mr. Souter, I was just referring to the finding of arsenic in the belt of Rowjee. I understand that you were aware of his going to fetch the belt?—Rowjee did not go to fetch the belt.

But you know it was fetched?—Yes.

The President I do not quite understand your question.

Sergeant Ballantine He says "I know that some one was sent to fetch the belt."

Mr. Souter Rowjee mentioned it was in the possession of a peon called Bhoondar, and he came personally to fetch the belt.

Sergeant Ballantine Was there anything to prevent your remaining and examining the belt yourself?—No. There was not.

The President What is that?

Sergeant Ballantine There was nothing to prevent his remaining and examining the belt himself.

My Lord, His Highness the Gaekwar is desirous that a statement of his should be read to the Commission. I am desired by him to lay it before you. I think I believe that their Highnesses upon the Bench understand this language perfectly—the Marathi. If so, I propose that the interpreter should read it in Marathi.

Sir Michael Meade The Maharajah of Jeypore does not understand Marathi.

Sergeant Ballantine Oh! then, it must be translated for him in Hindostani.

The President The statement is in—

Sergeant Ballantine Marathi—

The President You say you have—

Sergeant Ballantine An English copy, my Lord. I will get in Hindostani copy made. And perhaps the best course would be to read it in English, and have it translated.

The President His Highness of Jeypore says the English copy will be sufficient for him. He does not wish it to be translated now, but afterwards. It can be read in English and a copy handed in after.

The President Better read it in English first.

Mr. Brinsford With your Lordship's permission, I will read the statement. It is as follows—

My honoured and valued friend His Excellency the Viceroy, having declared his intention of giving me an opportunity of clearing myself from the grave suspicion which he was induced to consider attached to me in consequence of the alleged attempt to poison Colonel Phayre, the Resident at my Court. I now, out of respect for His Excellency the Viceroy, and from a desire to clear myself before him and before the world at large of those suspicions, make the following statement—

I never had nor have I now, any personal enmity towards Colonel Phayre.

It is true that I and my ministers were convinced that owing to the position taken up by Colonel Phayre during his Residency it would be impossible satisfactorily to carry out the reforms I had instituted and was endeavouring to complete in deference to the authoritative advice conveyed to me in the khureeta of the 20th July 1874, consequent upon the report of the Commission of 1873. Acting on this conviction, and after a long and anxious deliberation with my ministers Messrs Dadabhai Nowrojee, Bala Mungesh Wagle, Hormusjee Ardaisur Wadia, Kazi Shahabudeen, and others, I caused the khureeta of the 2nd November 1874 to be despatched to His Excellency the Governor-General through Colonel Phayre, and notwithstanding his remonstrance, feeling assured that when the true state of affairs was placed before His Excellency the Viceroy, my appeal would be successful. This conviction was shared by all my ministers, and was strengthened by our knowledge of the severe censure which had been passed on Colonel Phayre by the Bombay Government. The removal of Colonel Phayre on the 25th November 1874 shows that our judgment was not erroneous.

Thus neither personal nor political motives existed to induce me to attempt the crime with which I am charged, and I solemnly declare that I never personally or through any agent procured or asked the procurement of any poison whatsoever for the purpose of attempting the life of Colonel Phayre, that I never personally or through any agent

directed any such attempt to be made, and I declare that the whole of the evidence of the ayah Ameena, of Rowjee, Nursoo, and Damodhar Trimbuck on this point is absolutely untrue.

I declare that I never personally directed any of the Residency servants to act as spies on the Resident, or report me what was going on at the Residency, nor did I ever for or cause to be paid any money to them for such purposes,

I say nothing as to the presents that may perhaps have been made to servants of the Residency on festive occasions such as marriage and the like. Information on trifling matters going on both at the Residency or at my own palace may have been mutually communicated, but I did not personally hold any intercourse with those servants for this purpose, nor am I personally cognizant of any payments for the same having been made, nor did I authorise any measures by which secrets of the Residency should be conveyed to me.

I present myself before this Commission fearlessly. I put implicit faith in the justice of those appointed by my honoured and valued friend the Viceroy. I am willing to answer any questions they may deem it right to put to me, and again solemnly deny the foul charge my enemies have instigated against me.

THE DEFENCE

Sergeant Billiant then rose to address the Commission on behalf of His Highness Mulhara, Gaekwar of Baroda. He said "May it please your Lordship, your Highnesses and the other members of this Commission. After what I believe and I think I shall demonstrate, to have been a most cruel and groundless persecution, His Highness the Gaekwar of Baroda has now the opportunity of coming before a Court constituted as this is, and to ask at your hands that justice which has hitherto denied him. It is now known upon what grounds these accusations have rested. It is now known upon what slight foundation his liberty has been taken away. In his been humiliated in the sight of his subjects has suffered the misery of what must be in reality, to a man in his condition, a severe incarceration. It is now further known upon what evidence these charges are founded, and in what way that evidence has been procured. It is known who are those who have conducted this prosecution—conducted it with all the energy that an active, and I am obliged to say utterly unscrupulous, police have brought to bear upon the matter. We know now what is the foundation, what is the evidence, and what are the witnesses in confirmation of this evidence. And I am not afraid to assert, and I do so fearless of contradiction from every thoughtful and reasoning man, that a mass so incongruous, a statement so contradictory, that matters so improbable, I may say almost impossible have never been heaped together in any charge that in modern days, at all events, has been brought into a court of justice. I am further entitled to assert, again I may say without fear of contradiction, that the witnesses who are called upon to support these charges are abandoned beyond all ordinary infamy, and that the only endeavour that can be made by myself in appearing for His Highness the Gaekwar is not to point out in these matters, which I have to meet as bearing in any way the impress of truth, but probably rather I have to contend with the greater infamy of one witness beyond another, whilst I am unable to rest my mind upon any witness or upon any evidence which does not upon its face bear the stamp of falsity, and does not bear upon its very surface an invitation to those who have heard it to say that this is a vile perjury, which no gentleman or man of honour can receive or believe. I have said, my Lord, that the mass of evidence, the character of it, and the nature and character of

the witnesses is such as to be almost without a parallel. I remember no case of modern days having the slightest similarity. I have not any acquaintance with the courts of justice in this country, and for aught that I know, infamy may be found to exist, and cases of infamy may be discovered before a tribunal like this, but in my time and in my knowledge of other tribunals with which I am familiar, I have known none of the same character. I have known none bearing even a similitude to it, and I confess it is with wonder and astonishment that this unfortunate and unhappy prince has had his liberty taken away, followed by slander of the foulest kind, has been kept with infamy of the most extraordinary kind from quarters where he would feel it most. And when I have to find out the evidence, I find nothing but a mass of groundless and filthy lies and abominable invention. My Lord, whilst this case has been proceeding, and whilst I have been reflecting from time to time upon the evidence which has been given from day to day, whilst I was unable to find anything in modern days in any way whatever similar to the story with all its improbabilities, with all its incongruities, with the absolute carelessness in many instances of making the falsehoods fit in one with another, as if the persons who told the lies thought they had an easy audience who would take in everything that these dirty wretches said against a man under the ban of Government. It is not peculiar to the country of India that when a man is down, and it is thought may never rise, these dirty curs should spring up and yelp and bark, and their miserable tongues convey all the miserable slander they are able to collect against a victim whom they suppose is prostrate and never again will be able to rise. But, my Lord, the story which has been told here brings forcibly to my mind one of the most disgraceful passages in our history, where a weak king and an excited populace, assisted by corrupt judges, listened to stories equally incredible, listened to tales equally absurd, scorned anything like reasoning, applied nothing like judgment, listened to every thing that was stale and apparently believed it, and allowed many an honourable and upright gentleman to be hunted by perjury and fraud to the scaffold. It reminds me of the days when Oates and Dangerfield and the crew of villains which surrounded them, invented every lie which came to their mind, and emitted these lies in a court of justice, and were listened to because those to whom they told the lies had no independence, and were afraid of the opinion of the monarch and the feelings of the people. But again I have been thinking whilst this case has been progressing, that in this country there is a belief by certain parties in the doctrine of transmigration of souls, and when I have heard Rowjee and the other persons who have been called here—Nursoo and the others—I cannot help bringing to mind that possibly if the ideas of that sect have anything in them of truth, at this moment we have the souls of Dangerfield and Oates before us hidden in the bodies of the perjured witnesses who have dared to give evidence before an intellectual and honorable tribunal. My Lord, I hope—indeed, I am sure—that you will believe that it is no mock modesty on my part when I say that I enter upon a discussion of this case with a feeling of such heavy responsibility that it almost destroys my powers of reasoning, with the clearness I should have desired to put before a tribunal constituted as the present is. I cannot divest my mind—it may be a wrong feeling, a feeling not appreciated probably by many, I do not mean upon the Bench, but by many of my hearers, but I cannot divest myself of a strong feeling of sympathy for that unhappy prince and my mind and powers are

... probably—because I believe without a word of mine, this case will be disposed of as I can desire and as I believe

in the cause of justice and truth. But still it may be upon me that some matters rest which may have a more or less effect, and I do feel a weight of obligation cast upon me, and that I may be enabled to perform the duties I have undertaken, I have only to make this observation upon this subject. The matter rests entirely upon my own feelings. From the time I have had the honour of addressing the Court, I have met with nothing but a desire exhibited by the keenest attention to investigate the truth. I have met with nothing but assistance even when it was possible. I might have trespassed upon their kindness, and I feel that upon me, and me only, rests this matter, and I have no complaints since the subject has come into this Court. I have every faculty afforded me, and with these facilities I propose to address the Court. From this time I will endeavour to do so with calmness, advancing to them solely what I deem to be argument, because I hope to be able to impress my feelings upon the Commission, and if I can only succeed to impress upon your Lordship what is upon my own mind, there will be no two opinions on the decision which will be arrived at. It is not often, my Lord, that an advocate dares to express with such confident opinions—but I am sure the Court will feel that I intend no disrespect to them—and moreover if the indecision should indeed be adverse, I shall surely feel that my judgment has been wrong, that my thoughts have been erroneous, that my conclusions have been led away—possibly by my feelings—but such nevertheless are my feelings, and my only hope and prayer is that I may be enabled to convey that which is upon my own mind in clearness to the minds of those whom I have the honour to address. My Lord, the Proclamation by His Excellency the Viceroy, as has been pointed out, has limited the scope of this enquiry. It is particularly directed that no extraneous matters should be introduced. It is anticipated that the two questions that have been submitted to you—namely, whether or not there has been an illegal tampering with certain servants of the Residency, and whether or not the graver crime imputed to the Gaekwar had been committed—are the two questions which this Commission is called upon to apply their minds, and to express an opinion upon. I refer to this because it is impossible not to feel that the Gaekwar has been surrounded by—or enveloped, I should rather say—in a cloud of what, as far as I show, is calumny. I am not here with any power to know of former transactions, or aught of his former life. I have not sought, and I do not possess information upon the subject—I can well imagine—one's reading at all events gives one an insight into those who are occasionally governing territories of this description—one knows how they are brought up—one knows how little of independence they possess—how their thoughts are more or less controlled by others—and I believe I am right in saying that there were unfortunate circumstances in His Highness's life, which made him more than usually dependent on others, and gave him less opportunity of acting for himself, and governing those matters in which he had a more immediate concern. It is not uncommon, unless a prince is indeed very acute, and unless he is also very determined—it is not uncommon—I will not say, merely in this country, but in every country in the world—for princes to be surrounded by the vilest of servants—men who are plundering them—men who are deceiving them—men who are tricking them—and yet, men in whom they place their confidence. My Lord, I only refer to that for the purpose of founding this observation. Do not let us be too hasty to fasten upon the man's heart, his judgment, or his mind transactions if there be any, which have emanated from his servants, and over which he may have had little control. I make no further observations upon this point. I think it will not be felt by the Commission that it is an improper one to have been made, although it is not with reference to that which is more immediately

in issue, and although when I come to point out what is the real nature of this case, it will not be, my Lord, unimportant to ascertain by whom the Gaekwar was surrounded, and who were the persons influential in his household. But I wish rather to convey—perhaps, addressing this tribunal I ought not to do so, but it is an argument that is addressed to the highest and to the greatest—whenever mortal is subject to mortal prejudices and mortal feelings, and it will be considered no disrespect on my part when I earnestly implore those members of the Commission who may have known something of former transactions on the part of the Gaekwar, and who may, for aught I know, have formed certain opinions upon those transactions. I am sure it will not be felt any disrespect on my part if I implore them earnestly—as a duty to the Gaekwar—as a duty to their country—as a duty to common justice—to dismiss every consideration of that kind from their minds, to start free and clear from the point to which His Excellency the Viceroy has directed your attention, and from that point say, is there any case made out? The importance of this enquiry, of course, is very great. It is not for me to contemplate political consequences I am quite sure, from the course that His Excellency the Viceroy has taken in this matter, that he is careless of political consequences, that he has desired to exhibit to the civilized world that the kingdom of India can be governed by honour, and that questions between the Government and those who may be supposed either to be antagonistic to, or somehow in the way of, the Government—that such questions shall be determined in such a manner as shall give satisfaction to civilization—and he has appointed for that purpose a tribunal to whom it is impossible not to look up. The native princes acquainted with the habits of their own order, I shall hereafter appeal to upon certain evidence that has been given during the progress of this case, and endeavour to obtain their assent to a proposition that I shall make that the story stated is, upon the face of it, incredible. To the native princes I shall appeal as having at this moment the power and authority placed in their hands, and a belief reposed in their truth and in their knowledge, the exercise of which power will have to be answered for to the length and to the breadth of India. To those who are my own countrymen, I have only to say, I expect, and know I shall possess that assistance and that fair consideration that ever comes from an honourable English gentleman and I care not who the presiding officer of this Commission may be, provided he is a judge of England—because the very term judge of England means of independence, and no such thing as wavering from the truth, or yielding to power, or enacting, except under the virtue of strong convictions—strong belief and independent feeling ever enter into the mind of any of those whom I am proud to call my countrymen—of any of those to whom the entire world look up, as being free from anything like imputations of ever leaning to the right or to the left, as far as their judgment enables them, to go straightforward, whatever the interests at stake, whatever might be the importance of the determination, whosoever it might injure, whosoever it might benefit. Under such circumstances, I consider I am indeed fortunate in the tribunal I have the honour of addressing, and while I doubt my own powers and ability in placing the matter as I could wish before them, I believe the world believes and looks to them with implicit and absolute reliance upon their integrity, as well as upon their knowledge and their judgment. Now, my Lord, in dealing with this case, the early evidence, as it will be in the recollection of your Lordship, applied to tampering with the witnesses. I propose, however, to postpone the consideration of the matters connected with that particular charge—and to deal with the evidence applicable to the graver charge that has been made against the Gaekwar. I think that will be more convenient for one or two reasons. In the first place, the

charge of poisoning, or attempt to poison, involves in many of its details the necessity of considering the evidence connected with the other charges, and the nature of those other charges and I think that a great deal of time will be saved by taking the earlier charge first, and I am bound also to state, in doing that, I am unable to bring my mind down to the level of the other charge, which I scarcely appreciate. It appears to me comparatively at all events—trumpery and trivial. I feel some difficulty also in understanding the exact nature of it, or its exact legal bearings, but I shall, when I come to consider it, endeavour to obtain the sanction of the Commission for the view I take upon the subject. In the meanwhile I shall deal—I propose to deal with the graver charge—and upon that, it appears to me that it is desirable that I should make one or two general observations. With regard to the nature of it, I shall have to enter into a good deal of detail and particularity. But there is one observation that it occurs to me that I am entitled to make. I have already referred to the police. I find that the police are dealt with in different books connected with the law of this country—evidently upon the foundation of great doubt arising as to their testimony. I believe I am right in saying that within certain jurisdictions—I do not go into details of such jurisdictions—that a confession made to a policeman man is not receivable in a court of justice in any instance whatever, unless there is some other person to corroborate it—so an uncorroborated confession of a person to a policeman would not be received—a confession to a policeman, as I understand, would not be received at all—there are some provisions in other Acts of Parliament, I believe I am speaking correctly upon the subject, by which policemen are forbidden to accompany witnesses to a court of justice. It seems that the legislature and the courts are fearful of the influences that the police are likely to have upon these witnesses. Laws of that kind do not apply here—as far as I see there is no law whatever governing the police or what they do. As far as I can see, they are entitled to do anything. They appear to me to have unlimited power—there does not seem to be any judge—any magistrate, who can control them—what a policeman chooses to do he does, and, in the present case, I do not know how many, but a vast number of witnesses have been detained in custody for the purpose, as they say, of investigating this charge. Now, such an unlimited power undoubtedly creates—and it is necessary that it should create—a very great amount of terrorism—and you know no man can call his house or his person his own when a policeman is able at any moment to take him into custody, and hold him whenever he chooses, for any time he pleases, and there is no remedy in any way—no magistrate can interfere, or does interfere, and he has no power whatever either to obtain redress at the time, or compensation afterwards. It is the law, I presume, of the land. It is unquestionably the practice at Baroda. We have seen it in numerous instances, and we have seen the mode in which the police have acted with regard to different persons whose evidence was given in this case. In many instances I shall have to dwell upon facts connected with the police. But there is one general observation which appears pertinent to this case, and I shall be glad to fix it upon the minds of the members of this Commission. It appears to me to be a most monstrous thing and calculated to lead to the gravest injustice. I believe that I shall show in the present case that it has led to the gravest injustice, that a police officer should not only be the person getting up the case, doing all he can to bring it home to the person who is suspected of the charge, but that he also should have the power of taking the depositions, and that those depositions should be capable of being used against a person upon the subsequent enquiry, or trial, whatever it may be. Human nature is not less so because it inhabits the mind of a police constable, and a man who

is hunting something down, gets a keen desire to catch it—and sometimes if he cannot get at it by fair means, will go a little out of the way and obtain it by foul. It is not right that that which is a judicial document, and intended to govern judicial minds, should be the act of a person who has a strong, a naturally strong partisan feeling in the matter under discussion, and I think I shall be enabled to show that these observations that I have made is singularly pertinent in the present case. Upon referring to some of the depositions that have been taken, and I cannot help saying—and I shall give my reasons hereafter for making the assertion—that these depositions are not warranted by what took place, that they have been unfairly obtained, and that in many instances they do not represent in reality what was said, and that in point of fact they do not in any way whatever convey the truth as was intended even in the mass of falsehoods, because these depositions contained that which the witnesses themselves did not intend that they should. I think I shall be enabled to show this in a variety of instances, and that the observations that I have made upon these depositions which I shall put will be present to your minds—they are not to be credited. I treat them as being instruments coming from a source more or less tainted with suspicion. Now, my Lord, there is another matter. It is a general one, and upon that I must rather address the President of this Commission—than address those—except so far as some of the observations will be mere ordinary common sense observations as far as I can make them so—but they involve certain principles of law, as well as certain principles of justice. One often meets, when these questions are being discussed in society, a number of people—very worthy people indeed—who say, especially if it is a subject of such great interest as this, 'Oh! So-and-so, there is no doubt that he is guilty,' and I have no doubt whatever that will be the kind of observation that I should meet with pretty generally among the English residents and English visitors to Baroda. This opinion is not confined to one sex, but I should think it is pretty generally extended. But let me endeavour to introduce a little reasoning into the subject, and ask 'Oh! but why is he guilty?' 'Oh! why you know everybody says he is guilty—there is no doubt he is guilty.' Then you ask upon what facts do you put it? Then comes the puzzle. Facts are difficult things. And I have often observed that those who have given their opinions upon a particular subject dogmatically, have very little knowledge of the matters upon which these conclusions are formed. Belief, I apprehend, cannot be formed by mere intuition—such belief as ought to govern the minds of courts of justice must be a belief founded upon facts. Now, with regard to the facts—there again, there is very often a very great mistake. People treat mere assertions as being facts without investigation, and without enquiry, and without analysis. But there is, moreover, a class of facts, and what may be dealt with as assertions, and which may also be said to be facts, that frequently come before courts of justice, and which have had the attention of very great and learned men applied to them for the purpose of dealing with them in a fair and judicious manner—I mean those statements that are made by accomplices—the statements that are put forward by persons who admit themselves to be parties to the crime—and I am extremely anxious in this case that the position of persons of that kind should be thoroughly understood—and I apprehend that I am not wrong in saying that no court constituted under British law will receive the evidence of an accomplice without confirmation. I am not unaware and I should like to exhaust this subject, which I think will be an important one, and one which I shall not probably alude to again, that there is no law to prevent a person being condemned by the evidence of an accomplice alone, but

there is springing up a custom, as much honoured as the law itself, that judges, in directing juries, expressly direct them—and it would be a misdirection if they omitted to do so—that upon the evidence of an accomplice alone, no person can be put into peril, or have his liberty or his life imperilled. That proposition is a simple enough one, perfectly intelligible, and I fancy so completely admitted that I need not elaborate it, but it will be well appreciated by the learned Chief Justice that there is a more important question subsidiary to that one, and that is what is the nature of the confirmation that can with propriety be received to implicate a person charged. That is a question not of less importance, but it is a question undoubtedly of more difficulty. It requires clear heads and clear minds to deal with that question. I propose to make some observations upon it, and submit, not my views, but I believe the views of all lawyers upon the subject. Corroboration must be something that implicates, however slightly, the person charged with the statement of the witness, it must bring in some way or other the accomplice and the accused together. It would be confirmation supposing there was any writing in the handwriting of the accused, in which some of the statements made by the accomplice we alluded to, and although it might be very slight confirmation it would be confirmation of a kind that could not be rejected. The confirmation that is simply sporting the accomplices as to their own acts independent of the accused, away from the accused out of the presence of the accused and not shown to be within the knowledge of the accused, is no confirmation whatever. I put the matter broadly—even it is could, et—and that is impossible, a respectable witness into this case who had seen Rowney put the poison into the glass of Col. Meade would be conclusive against Rowney, but it would be no evidence whatever against the Gaekwar. I put that broadly, because it mixes each proposition that I have submitted to the Commission perfectly ineligible and it is observation that I think the Commission will follow every witness in this case, and follows all the evidence that has been given in this case. I think that I shall demonstrate that that confirmation that is said by the law to be required to support the assertion of accomplices against an accused person is wanting from the commencement to the end that there is not in point of fact a scintilla of evidence coming from an uncorrupt witness which in any way whatever confirms the evidence of the accomplices in this case. I may put illustrations founded upon this very shortly supposing there is a word of truth—and I do not say there was not—in the assertion of D'Modhur I put that he obtained arsenic from the man Nooro-deen—supposing Nooro-deen had been called and proved the receipt of the arsenic—supposing there was any confirmation whatever assuming that there is confirmation that diamond dust or diamonds were obtained from a single individual—that is confirmation if the man is under charge—that would be proof against him but it does not confirm his story against the Gaekwar, and I think this Commission will find after careful investigation of all the evidence in this case that from the commencement to the conclusion there is no evidence whatever that introduces the Gaekwar personally or by writing, or by act there is not an independent witness who has put his finger upon one single act of the Gaekwar, that in any way whatever confirms the story told by these accomplices. As I discuss the witnesses, which I am afraid I shall have to do at considerable length, I shall have to describe the details that they give in the shape of confirmation and I think I shall satisfy the Commission who have heard my proposition on that subject, is at all events a perfectly correct one, and having, as I hope made myself clear on these tops I wont trouble the Bench further on that subject, but request them to consider the observations

I have made, and say after that whether or not I have laid before them a proposition that is not only legal but one which commands itself to men of sense and learning, they may not have the learning and experience of lawyers. It is sometimes said and sometimes written, said by people whose words are not of much value, written sometimes by people whom one would have supposed knew better. Ah do not let us have any technicalities. And I think I have seen it stated in relation to this case somewhere, that there will be no legal quibbles in this case, it will be tried according to common sense and reason. Technicalities will be entirely excluded. Those who talk that may forget that the technicalities they so much abuse, and which govern the practise of courts of justice are the work of the experience of great lawyers and great men, of the judgment of those who have considered the question of how the truth is best elicited and that these technicalities which are abused by thoughtless and silly people are in point of fact the bulwarks of their country, and the means by which truth is sifted out of lies and has been created and recognised by the wisdom of ages as the best mode of establishing the truth. I shall not trouble you further with the discussion of a subject which certainly does not possess any features of amusement, but shall proceed to direct your attention to what I consider to be an important feature in the case. I am not going to make any observation or complain further than this that I have already made about the position in which His Highness is already placed. Those who have done the acts are responsible for them, and their doing will not affect the judgment of this Commission. I may, however, allude to them so far as they may be pertinent to this enquiry, and I think you will agree that this observation is fairly pertinent, that the Gaekwar from the position in which he has been placed from the piratical seizure of all his possessions or to use the euphemism of the Resident Sir Lewis Pelly their attachment—an attachment of so lasting, a character that the Gaekwar has never yet seen the end of it so that so far as he is concerned whatever word is applied to the subject is extremely immaterial in relation to all this I say he has been placed without means at his command, and is under a cloud and I need scarcely add the observation that the position in which he is placed naturally creates many difficulties in meeting any charge of any nature such as is now preferred against him. I will say no more upon the subject. I think the observation will meet with ready assent, and I do not propose to refer to it again, but I propose, with great submission to the Commission, to dwell upon what has been the conduct of the Gaekwar and also what his interest would be in this matter. It appears to me to be an extremely important subject indeed. I should venture to say in a case surrounded as this case must be admitted to be by perjury it becomes extremely important to view that which must in any way whatever be the effect of falsehood, of fraud and design. I therefore earnestly, and at the same time most respectfully and humbly, ask the members of this Commission to consider what the conduct of my client has been from the day of the period which forms the date of this transaction namely, the conclusion of the Commission that was held before Col. Meade. It would be irrelevant for me as it would be irrelevant for this Commission to consider the enquiry that took place before one thoroughly competent to form a judgment and to assist the Viceroy of India by his views upon that or any other subject. I wont say or suggest except by a word that much which appeared upon that Commission may have been applicable to servants and not directly to the Gaekwar, but I pass away from that. The terminus from which I begin is the end of that Commission. The conduct of the Gaekwar from that period is a matter to which I have to solicit your earnest attention. I

hive to solict it with a view of asking you to say it was not the conduct of a man who was designing and arranging a crime of deep dye. That it had all the contrary appearances. It is not merely negative. I wish very much that my observations upon this point should be made by me with sufficient clearness and force to fix them on your minds. I assert that it is not in human nature that a man should be acting openly in the way the Gaekwar did, if avowedly against a person against whom he was so plotting secretly. It would be obvious to the meanest intellect that people would at once say, "Yes, here is the man that has done it." Ordinary common sense, to give no higher name to it, ordinary cunning would prevent any course of that kind. I should expect that a man who was about to poison another in the way suggested against the Gaekwar, would be all affection with the man he intended to poison and I should expect to find him destroying any evidence that he desired to do him evil. Instead of that you find him in conflict with Colonel Phayre certainly, but in a fair, open, and honourable way. He obtained a khureeta from the Viceroy of India an important document, in which the Viceroy, after having considered Colonel Meade's report after learning all that could be said upon the subject, after deriving all the assistance that could be given to him by experienced ability and knowledge came to the conclusion that the Gaekwar was a person who might under certain conditions be entrusted with the reform of those institutions, the bad arrangement of which had formed the subject of the preceding enquiry, and he gave to the Gaekwar an opportunity down to the end of the year 1875 to effect this necessary reformation. He had received from the Viceroy the clearest proof that in the Viceregal court he would meet with fair consideration with fair judgment, and that he would be given a fair chance. Well, why should he interfere with him? But he finds—and upon that I shall have to observe hereafter—that every sort of opposition to the proceedings he was taking and to the endeavours he was making to perform that which had been suggested by the Viceroy I do not think it is unworthy of remark the observation that was made by Sir Lewis Pelly in his examination yesterday of what his experience of the Gaekwar was. He found him quite amenable to reason, he was able to act with him upon most agreeable terms, he found that he was perfectly ready to do what was suggested to him in the interests of his government and according to the desire of the Viceroy. And one cannot help making the observation that there is sufficient and abundant evidence—and I think I shall be able to point that out without any unnecessary harshness or unkindness—that Colonel Phayre was about the very worst man who could have been placed in the position he was in. That he was in his conduct most injurious and that the Gaekwar had most reasonable ground to complain of the conduct he pursued. One little incident is enough for me and I think I shall have to deal more upon this hereafter. You, gentlemen of the Commission, can do what I cannot. You can realise the native mind and the native reason, and I ask you—and I think you will agree with the comment I am making—could there be anything on earth more in judicious than for Colonel Phayre to show himself in daily and hourly intercourse with the very bitterest enemy the Gaekwar ever had? Could he have thought under such circumstances justice was likely to be done to him? Moreover, was justice likely to be done to him? I venture to think not, for although Colonel Phayre imagined and stated that Bhow Poonakur was a most upright and highly honourable man, I venture entirely to dissent from that opinion, and to think he was nothing more than a spy, and a person who with other persons too numerous to mention was hunting up for that very information in which the Gaekwar is accused of obtaining—hunting it up in

much the same way—not perhaps receiving for it specific sums of money, but receiving Colonel Phayre's patronage, which would put more in Bhow Poonakur's pockets than a few rupees would do as it would show that he had the ear of the Resident, and it must be remembered that this man must have appeared before the eyes of the Gaekwar as being a person who in all human probability was controlling all the actions of Colonel Phayre in all human probability. Is it wonderful, then, that the khureeta of the 2nd of November should have been penned? Of course the gentlemen of the Commission have all the dates in their minds, so that I need not ask them to recollect them particularly, but in dealing with it, it seems to me a matter of importance to remember this date. I allude to the 2nd December. Immediately previous to that time the khureeta was being framed. It must have been a subject of very grave deliberation. It is as far as my humble judgment goes, a very admirable document. Everything is put most fairly, most temperately, and at the same time argumentatively, while, not leaving matter upon bare assertion without proof, two or three cases are quoted of what he alleges to be the gross injustice perpetrated against him by Colonel Phayre. The case propounded by the prosecution is that at the very time this khureeta was being prepared, simultaneously with it—day by day and hour by hour—it must have been going on arsenic, diamond dust, contrivances, by all accounts the dreariest remains of ancient superstition, bottles containing poison, such as one may read of probably in the Arabian Nights, but which I should have thought would have been hardly alluded to in the darkest places in the 19th century. But all this time while a grave State document of great importance prepared weightily, prepared with care and argued out with judgment—while this is being prepared by himself and his ministers, he is accused of mixing himself up with a parcel of scoundrels and inviting them to poison the man whom he must have known perfectly well would have to answer this khureeta and whom he also must have known it would be perfectly useless to act in any way whatever against till this khureeta was answered. Of his object I shall say nothing more at present but when I come to objects I shall have to say a good deal. There are grave matters in this case that will present themselves and I cannot help thinking before it is concluded the real criminal will be discovered. I cannot help thinking so. But talking of the probability of the Gaekwar being that criminal, I wish to inquire—and this is a matter that as I shall have to dwell upon hereafter—as strongly as I can on the minds of the Commission that such an outbreak as would arise from the successful poisoning, or unsuccessful attempt to poison, must in all human probability have utterly prevented any attention being paid to the khureeta. In this particular instance, the Viceroy appears to have attended to it immediately and, notwithstanding this alleged attempt occurring, to have answered the khureeta in most favourable terms. But it appears to me if the Resident had been poisoned, in all human probability there would have been an end of the enquiry raised by the Gaekwar, and that the greater subject connected with the kingdom, the poisoning of the Resident, of the Queen representative in that kingdom, would have smothered everything like an enquiry into other matters, and probably would have led to a deposition of an entirely different kind, upsetting, from the beginning to the end all the endeavours of the Gaekwar for the purpose of obtaining what he considered justice at the hands of the Viceroy. I submit that would be the natural result, I should say, the almost certain result of such an attempt whether successful or not, therefore I venture to think that the two things are totally inconsistent, that the khureeta and poisoning do not agree; that they do not go hand in hand, that they are poles asunder, that they diverge of necessity, that the man

whose mind was on the khurests would not have his mind on a matter which would prevent the khurests having anything like effect, and bring of course some other Resident at the same time, circumstances of which he must have been perfectly well aware, for if he was a party to this matter at all, he must have known that there would be the severest investigation and search attended with the most dangerous consequences. Having remarked on the conduct up to that time of the Gaekwar, I wish now to proceed to the period when suspicion—or rather, before I arrive at that, I wish to call your attention to the conduct of the Gaekwar during the interval, when you have been told by Sir Lewis Pelly he was free from all restraint, under no watch, and not interfered with in any way whatever. The suggestion of the prosecution is that upon this man's mind is the knowledge of this heavy crime, and he also knows, if the story be a true one that the immediate actors in this crime are persons who have been already suspected that enquiries have been made and that the train is laid by which ultimately the truth may be arrived at. At this period his secretary, Damodhur, was not under charge Damodhur, who certainly, whatever other elements may be wanting in his constitution, is not wanting in intelligence, would of course have communicated with him, and according to Damodhur Punt's evidence he had communications with him, so if Damodhur Punt's evidence is to be believed, his mind was quite alive on the subject, at all events his mind would necessarily be alive from the fact of Rowjee and Nursoo having been taken into custody, and this matter being investigated. Well, at that time he has control of all the means connected with his Government. The control of money, I presume, to any amount that could be thought necessary for the purposes I am about to suggest, and the question is what his conduct was, and whether that conduct is what you would expect the conduct of a guilty man to be? I submit that it was not. On the contrary, it was the conduct of an innocent man. It is not pretended he had communication with Rowjee, it is not pretended that he had communication with Nursoo, it is not pretended that either by his agents or otherwise he endeavoured to get them out of the way. It is not suggested that any attempt was made by his agents or others to bribe them. He remains there knowing, if the case on the part of the prosecution is a true one, that he is sitting upon a mine to which a match might be at any moment applied, knowing that he must be necessarily blown up by it, and yet there he remains careless, pursuing his ordinary avocations, seeing Sir Lewis Pelly each day, dealing with Sir Lewis Pelly anxiously for the purpose of meeting the views of the Viceroy, daily in the town, daily having an opportunity of seeing Rowjee, daily having an opportunity of seeing Nursoo, his secret agent, I suppose he would have no difficulty in finding whom he could at any rate, and there is not a single act from the beginning to the end of that period, that is, I urge upon this Commission, not an act that is indicative of anything but the most perfect freedom from guilt in the subject-matter now charged against him. A very few words more about him. I had intended rather to have deferred my observations upon this matter till a later period, but one does not always follow the exact arrangement that one has made, but having alluded to it, I will now conclude my observations upon the subject of his conduct, by begging attention to the evidence given by Sir Lewis Pelly as to his conduct when he was requested to send Yeshwantrao and Salim to the Residency. I think I may ask you to refer to the correspondence which I put in on that subject. Sir Lewis Pelly left no doubt whatever as to what was the nature of the enquiry, and as to his object in asking for the presence of these two persons. What was the conduct of the Gaekwar himself? It may be decent, and it may be hypocrisy, but is a decent and

hypocrisy that he has not shown on any other occasion. It is a deceit and hypocrisy inconsistent with anything you find in the earlier period of his conduct regarding the matters which have given rise to this trial. It may have been deceit and hypocrisy sending Salim and Yeshwantrao, but they were sent without hesitation. There was no communication made to them by any human being. They were allowed to go to the Residency, and state all they knew about the matter under the hands of acute police officers, and the power of the law and of the English Government, he knew how much can be brought to bear upon a person who is under investigation and from the beginning to the end. Although it is supposed he attempted murder, he has never interfered with any of those people, never attempted to corrupt them or buy them over, and when their presence was required at the Residency, he immediately, without communicating with them, ordered them to go there went himself offered himself in every way to give every assistance, and I take this opportunity of saying that while his interests and his conduct militate against his contemplating the act of poisoning his subsequent conduct showed as conclusively as a man's demeanour and conduct can show, that he had never been a party or perpetrator of it. I submit for your better consideration and judgment these observations upon the subject of what his conduct was both before and after this charge, and I hope you will not consider that I am too sanguine in supposing that they are likely to have great effect on your minds, and that effect of a kind much calculated in favour of the Gaekwar. At that time, as your Lordship is aware—I mean during that month while he was at liberty and free from anything like restraint—Salim and Yeshwantrao were his servants, under his control and there would have been no difficulty whatever in their removal if it had been desired. Another remarkable fact in this case is, that while there is evidence of sums of money of a comparatively small amount being paid as was supposed, for information to the ayah and to others—I say comparatively small amount, because, as far as I recollect the evidence the amount is small, your Lordship will correct me by your notes if I am wrong. I am speaking now without looking at my notes, but as far as I recollect there is not a half-penny supposed to have been paid to any of the alleged actors in this murkering transaction during the whole of the time during which the transactions were being carried out. I think I am right in saying that it was about August or September—certainly not later than these months—that any sums of money whatever were paid, and while it is supposed the Mahratta is spending money recklessly for the purpose of obtaining information, there is no evidence that a farthering was paid to any of his accomplices in the murder he contemplated. There undoubtedly is another instance in this case of remarkable modesty and self denial on the part of Rowjee and Nursoo—one is glad to find any good qualities remaining in their constitutions—they never seem to have asked for any money. My Lord, you see, we were in the hands of these men, for supposing they had told us that they had received sums of money, probably they would have had to account for the expenditure, and so on, and they did not ask that which they might be called up to give some proof of. If that be so, we have I think, a feature quite unnatural, that the prince put himself absolutely in the power of half-a-dozen of his subordinates, because one of the curious matters in this case is that the Gaekwar, who is said to be rather reticent in one of his examinations, seems to have been extremely anxious to parade his intention to poison Colonel Phaire, and if, in point of fact, he had been anxious to make up a case against himself, he could not have gone more effectually to work, for while an instrument would have been quite sufficient, he seems to have taken endless opportunities of proclaiming his inten-

tion, and surrounding himself with conclusive evidence of four or five witnesses, at least four of whom were quite unnecessary for the purpose he is supposed to have had in view. There cannot be a more remarkable instance of that than Nursoo himself, for if you look through the whole of his evidence, I ask you whether that man has been brought here for any purpose except to corroborate the lies of Rowjee, for from beginning to end he was useless in the transaction, and he is brought into the presence of the Gaekwar for no earthly purpose in connection with the crime that was about to be committed. They make him an intermeddler, and an entirely unnecessary accomplice to the crime—not very natural not very probable this. But as Nursoo is a man whose fate leads him into most unhappy matters, and entails upon him most unhappy consequences, and as he has upon him the divine spirit of repentance for the crime he has committed, it might have been that he was introducing a comparatively respectable element into the poisoning. I hope, my Lord, that I shall succeed in pursuing a consecutive argument in this case—the materials are so abundant—as the investigation has lasted such a long time—that some how or other, in the arrangement of matters, I may get into something like confusion, but I shall leave it to the members of the Commission to set my omissions right—I shall endeavour to be as clear as possible—and I shall also endeavour to be as concise as possible I think, my Lord, it may not be undesirable that I should refer more particularly to the case as it has been put before you, and for that purpose, I shall refer to the speech of my learned friend the Advocate General—a speech, in all respects, worthy of the high position he holds—perfectly temperate and fair—and an observation introduced into it about which on the part of the Gaekwar, I feel I have the slightest, right to complain in fact, I may say that one of the pleasures I have had in the conduct of this most important and anxious case has been the continuous courtesy I have met with from my learned friend and the assistance he has afforded me, whenever he could justly give it to me. I propose, as I have said to refer to his speech, because it is a careful speech, and has been founded upon instructions carefully given. I call your attention to the mode in which he places this case, and the features to which he invited the attention of the Commission as being those upon which he should ask your judgment adversely to the Gaekwar. He divided the matter into the charge of tampering with the servants, in which he suggested the ayah as being one of the principal performers. I ought, however, before I comment upon what my learned friend did open, to refer to one very remarkable omission in his speech. The omission must have been deliberate, and so far as I can see it is omitted of necessity. He does not from the commencement to the conclusion of his speech suggest any motive that could have actuated the Gaekwar to commit this crime. It has been left to me to bring out the position of the Gaekwar and his course of proceeding, to show what motives he had, and comment upon these motives and what they probably would have led to, but my learned friend suggests no motives, although he must have well considered this matter. It must have occurred to him as the first thing that should be dealt with in proving a great crime like this, but my learned friend has been unable to put his finger upon any single position that existed in connection with the Gaekwar that would have shown whence a motive could have sprung for the commission of this great crime with which he is charged I say he alluded to the tampering of the servants, but he did not suggest or allege that there was any connection between the ayah, Rowjee and Nursoo. What is also very remarkable is the following fact, which I shall ask your permission to say a word or two about. The Advocate General introduced

into this part of the case a person of the name of Pedro, who, according to my learned friend, was chief butler, and had been butler for some five and twenty years and whom he connected with that branch of the case which I have described as being the tampering with the servants. After the mention of Pedro, my learned friend says, "I now come to the more important part of the case." So that he divides the case into two parts—the acts of the ayah and one or two other persons, and the acts of Pedro, in connection with the tampering of the witnesses, and then he comes to the acts of other persons in support of the allegation of poisoning. It becomes important that we should consider the mode in which my learned friend has introduced the man Pedro, who forms a most important feature in this enquiry. I have no hesitation whatever in saying that independent of almost every other argument in the case, and taking a certain view of the case, the evidence of Pedro entitles the Gaekwar to an acquittal on all the charges brought against him. It becomes, therefore, extremely important to consider how my learned friend has dealt with Pedro. Knowing perfectly well that Pedro had to say, knowing who Pedro was, and having to introduce him to your notice—now, my Lord Chief Justice, who presides, is well aware how witnesses of a certain kind may be introduced into a case—supposing that testimony is at all suspicious—there may be a doubt under such circumstances as to whether they should be produced as witnesses. My learned friend has of course deliberated this matter. He has not attempted to cast the slightest slur upon Pedro. He has introduced him as a perfectly respectable trustworthy witness, and as a person to be relied upon as proving a particular fact. If he had been twenty five years in the employment of the Residency I have a right, therefore, to say that from the beginning to the end of this case, there has not been a suggestion of anything which would cause me to say that Pedro is amongst the whole group of liars and perjurers who have been introduced to support this case, the man against whom no imputation whatever is cast. Pedro puts this case out of Court. If Pedro is to be believed, there is an end of it. The entire superstructure must tumble. Rowjee, the main actor, cannot be believed as his evidence stood, but here it is contradicted up to the very hilt, and I will show you internal evidence presently of the truth of Pedro's statement and of the falsity of the statements made by Rowjee. Without, however, entering now upon that particular evidence, I shall deal simply with the particular fact that a man introduced here by my learned friend as a thoroughly respectable witness, competent to prove a fact, a man upon whose evidence he has asked you to find a decision against the Gaekwar, a man who for aught I know, has been a confidential servant for quarter of a century, declares in the witness box here that every word deposited in relation to him by Rowjee is a foul lie and fabrication. My Lord, I feel it very difficult indeed to say more upon such a point. It appears to me that as far as Rowjee is concerned the evidence against him is conclusive, and if you agree with me that upon Rowjee's evidence this case must stand or fall, then Pedro strikes a mortal blow to the whole case, from which I think that even the ingenuity and power of the Advocate-General will not be able to rescue it. He will attempt to avert it with all the fairness which, as the representative of the Crown, deserves simply for justice he can command, but I think that notwithstanding it will puzzle him to find an argument to convince this Commission that if the evidence of Pedro can possibly be believed, it is possible to believe in Rowjee. I am reminded by my learned friend, Mr. Branson to whom I have constantly to offer thanks for his assistance, that Pedro, oddly enough, is the only person whose examination does not appear to have been conducted by parties to the case. He was examined at Bombay by a Justice of the Peace, and Deputy Commissioner of

Police there (referring to Mr Edginton). There are some things that must be and can never be denied I apprehend that, in the first instance, you have such a cast. You have got Rowjee and you have got Pedro. You cannot believe both of them, it will be impossible to do so. I shall comment upon Rowjee's evidence presently, and, in the meantime, I shall say nothing more about Pedro's evidence. It is not necessary for me to give a character to a man from whom my learned friend has not attempted to take it, but who, on the contrary, has been relied upon by my learned friend for the proving of what he deems to be an important part of this case. Now, my Lord, my friend having stated that he would give the more important part of his case, proceeds to open upon the attempts to poison Colonel Phayre, and I think that your Lordship must have been surprised at the instructions which my friend received upon that subject. My learned friend, in his opening, makes no mention of the earlier attempts to poison. He does not allude to the earlier attempts which are said to have taken place to poison Colonel Phayre, and which form an important part in Rowjee's testimony. I do not remember the dates, but I shall call your attention to the subject afterwards. I merely call attention now to the fact that my learned friend does not mention it in his opening. I can scarcely imagine an omission of that kind to be accidental. Probably my learned friend thought it was so utterly incredible that he did not like to put it gravely before the Commission, and I think I shall be able to show, that if such is his idea, it is a correct one. But whilst he does not speak of these September attempts, he opens upon two attempts by Rowjee on the 6th and 7th November, while Rowjee himself, as the Commission will remember, declared that he did not make any attempt either upon the 6th or the 7th. It is perfectly true that although there was no attempt made upon the 6th and the 7th, yet Colonel Phayre had all the distressing symptoms just the same. Colonel Phayre looked back to the times when he ought to have taken the poison, and when he ought to have taken the poison, his stomach was in a most uncomfortable state. If it was so upon the 6th and 7th, it must have been the pumalo juice. Rowjee, who was said to have put in the arsenic, does not assert that he put in on those dates. On the contrary, he says "All that I received I put in on the 9th November. There can be no doubt whatever that liars often forget themselves. It is one of those fortunate arrangements of nature that liars very seldom have a good memory, and anybody can see that when my learned friend opened the attempt at poisoning on the 6th and 9th, Rowjee had made his statement, and that he had made such a statement. I forget whether he said so to Mr Souter or not. It is quite clear he made it to somebody. Well, when Rowjee came to be examined, I quite admit his position was not altogether a pleasant one, and his memory might not be altogether so retentive as it might be. He made no allusions to the attempts of the 6th and the 7th, but, on the contrary, he made a statement in effect entirely inconsistent with that, saying that he put the whole of the powder he received in Colonel Phayre's tumbler on the 9th. My friend then refers to the orders to procure arsenic from Hemchund Futtichund, about whom I shall have to say a word or two when I come to the evidence of Dymodur Punt, and I place before you a probable solution to this part of the case. But my friend makes an observation which I think also I may say was upon his instruction, and upon which also there is a direct and positive contradiction. He says arsenic and diamond dust appear to have been pounded together and handed over by Salim to Rowjee upon two occasions. In page 6 of the short hand writer's notes, my friend says "The arsenic and the diamond dust appear to have been pounded together and handed over to Rowjee by Salim on two

occasions. The importance of that I shall deal with in another portion of my observations, but I may briefly say that this diamond dust and arsenic are the diamond dust and arsenic supposed to have been given upon the first occasion to Rowjee. Arsenic and diamond dust are not said to have been received at all upon the last occasion. One powder only is said to have been given on the last occasion. But the two packets are said to have been given to Rowjee for the purpose of being administered to Colonel Phayre somewhere about September. Why it is important to consider what my friend was instructed to open, is this. From my friend's opening, it appears to have been compounded together. Now, the statement that Rowjee makes now is that there were two packets given. He divides it into three, one packet into white and the other into a rose coloured. Probably it is rose coloured because Rowjee had heard of rose diamonds. I rather imagine he introduced the colour out of compliment to the name. At any rate, there were two powders, a white one and a rose coloured one. That is his first statement quite inconsistent with the diamond dust and arsenic compounded together, perfectly so, for if they were compounded together, the arsenic could not have come into Rowjee's possession. It was necessary, therefore, for Rowjee, in support of the lie about the belt and the arsenic found in the belt, for him to invent another story and therefore Rowjee does invent this very remarkable one, he says that there were two powders given to him, not compounded together. One was white, the other rose-coloured. Then Rowjee, whose mind is of a peculiar character, made up of murder and mercy, affection for Colonel Phayre, and a desire to kill him, thinks that this white powder is too poisonous to administer and he is careful in making up the three packets to take a pinch of arsenic not calculated to harm anybody, and put it in the rose coloured powder, and that he deposited that which was intended to poison Colonel Phayre in his girdle and forgets all about it. I shall have to comment upon the belt episode after. It is a very peculiar and important episode, and is indicative of what the case is. It is not wrong that I should comment upon that, and point out the case my friend was instructed to open and the facts which were to prove it. I shall be obliged to refer to these matters again at something like great length, but I mention them now to request you to give such consideration as my observations and the fact themselves had you to consider they are worth. Then, my Lord, my learned friend, being in serious difficulties, having no motive to suggest, suggests that there is a confirmation arising from the absence of communication between all the witnesses. He dwells upon that as being a strong evidence of corroboration. Perhaps that would be about as near an approach in it as anything in this case, and although I should say it was trumpery and trifly, yet perhaps it has some claim to be considered as evidence of corroboration—if it were the fact. The only fault is it is utterly without foundation. Not only had the witnesses intercourse together, but they were invited by that respectable gentleman, Akbar Ali, in a most persuasive manner to give every particular to him, and they generally made a statement after having passed a comfortable twenty four hours. There seems to be a process—what it is I do not know—that having been under the gentle care of Akbar Ali, and probably quite accidentally, they are made very uncomfortable in their minds, and at once make a statement. That, as confirmation, falls to the ground, and I shall point to a way they were brought together for the purpose of having their evidence manufactured—and it was manufactured from beginning to end—and I shall, I believe, lead your minds to that conclusion which will be pretty well bounded by this, I need not say more than with the name Gujanund (I wish he had a name I could pronounce better) whenever

my friend may say, in relation to these witnesses, I answer—Gujanund. And if when Gujanund is fully impressed with the character he has given of himself upon the minds of the Commission, and when they remember the active and intelligent officers as they will be called in the London papers, whose assistance he had on all occasions, that any one will have the notion that the witnesses did not know what they were about, is most remarkable. If they had had memory at all equal to this information, these blunders would have been escaped, but, as I said before, men have not good memories and do not always recollect—what they have said on former occasions. Therefore, notwithstanding Akbar Ali Abdool Ali, and Gujanund, who in their zeal for their country and themselves I do not think this Commission will believe it. My friend then came to another point in his case. Up to this time he seems to have known that there was no sympathy in his case to offer to the Commission. He felt that he had a lot of terrible rogues and a deal of falsehoods or probable falsehoods, to allude to, and there was nothing whatever in regard to Damodur Punt and to Rowjee that could redeem them from the depth of baseness which their own admissions have put them. But at last my learned friend comes to an oasis in the desert of misery lying which he had been obliged to wade or rather travel through, and I ought to say the case of Nursoo is that of a man with something of innocence, something of guilt in him. There is no repentance which I noticed when my friend introduced his voice almost trembled as he said, "One other circumstance in regard to Nursoo deserves to be mentioned. He had been in service at the Residency for many years, and had held a high position there, as I have already said. After he had made his confession, he felt so full of remorse for his conduct that he attempted to make away with himself. When he had made this statement, and was leaving the Residency, he attempted to drown himself. He broke away from his guard, and attempted to throw himself down a well. It turns out, however, that he had had a dinner at the Residency—I have no doubt a very good one—he was standing beside the well and six people and he was seized with a vertigo and tumbled into the well. And notwithstanding all my learned friend's efforts to push him into the well, he could not go in except by his own act, and my friend could not get him to declare more than that he tumbled into the well. They say that truth is found at the bottom of a well, but on this occasion the police were too wide awake, and rescued him before he had found any. So we pass away from Nursoo. The matter to which my learned friend alluded, and upon which also he had depended for confirmation was the demeanour of the Gaekwar when he called upon Colonel Phayre on the 9th November. My friend said—"Colonel Phayre was still suffering when the Gaekwar visited him, but had not heard from Dr Seward the results of his analysis. He received His Highness as usual, and was very much struck in the course of their conversation at His Highness describing to him the very symptoms under which he was then suffering. The Gaekwar said there was a great deal of uneasiness about, and he said that he himself was suffering in very much the same way. Colonel Phayre did not say anything to His Highness at the time. Perhaps he had not then any suspicion, or at any rate any definite idea, that he was being poisoned. If Damodur Punt speaks the truth His Highness perfectly well knew at that time what had been done, because he picked up the Punt on his way and had some conversation with him." My learned friend intended to convey—and it would have been an argument of great weight—he wished to make it appear that His Highness knew, had the necessary medical knowledge of the symptoms of arsenic, that he represented that

he himself suffered under exactly the same symptoms from natural causes. I read the symptoms from a letter from Colonel Phayre to Dr Seward or Dr Gray, I see it is to Dr Seward—"A most unusual sickness of stomach accompanied by dizziness in the head, and of slight producing confusion of thought, also, a most unpleasant and metallic taste in the mouth with slight salivation, such as I have never experienced till within the last few days. These are the symptoms described by Colonel Phayre, and these are the symptoms my friend is instructed to say are identical with those which the Gaekwar attempted to make Colonel Phayre believe he was suffering under from natural causes. I have, therefore, looked into what the evidence of Colonel Phayre was upon the subject. He says—"I asked His Highness about his health, and he said that he had not been very well, and that there was a good deal of fever about and he thought he must have eaten too many sweetmeats of the kind usually sold at the Dewalee. He also said that he had hiccups and a slight pain in his stomach, but he was well now." It is rather difficult to associate the description which he gives of the slight pain in the stomach from eating sweetmeats, with the description by Colonel Phayre, and I believe any observation was made as to there being something unusual in asking Colonel Phayre about his health. Indeed, I am reminded that Colonel Phayre led up to the question by speaking of his own health. When I look at Colonel Phayre's evidence, I am warranted in saying that the whole of the Gaekwar's demeanour, and that the visit was the ordinary visit he made to him on that day that there is no ground whatever to say he was lying in the slightest degree. I have thus, my Lord, dwelt with my learned friend's speech, which is valuable not only for its ability, but as opening out in the clearest manner what his views is of the evidence. Now he says that they are dependent upon Nursoo and Rowjee. He admits them to be accomplices in the crime they say was committed, and that he consider that in ordinary practice—and the practice will be observed on the present occasion—that confirmation is never vary and he undertakes to give that confirmation. He gives three sample. One is that the witnesses were kept separate. I have already referred to show that wherever practicable the contrary was the fact. Will any one for a single moment doubt that there is any honest confirmation in the conduct of Nursoo? Here is a man who on one occasion was wicked and once repented. With what object he is introduced into the case? Dil the Mahirajah on my occasion give him anything to do, he has done nothing, so that that has fallen through. As to the demeanour of the Gaekwar and his illusion to his own maladies, which he says is identical with those of Colonel Phayre, that also tumbled down to the ground. Therefore, as far as my learned friend's case has opened, Damodur Punt, Rowjee, and Nursoo require confirmation. He has failed in those points on which he relied to give confirmation. He has opened with Pedro as a witness to be relied upon to give confirmation. He has opened with Pedro to be relied upon in vain, no comment to detract from his evidence and credibility, and he knocks over the main point of Rowjee, and if Pedro be true, Rowjee has entirely perjured himself. Then if I am right in the observations I venture to make in this portion of my address upon this point, we are now left entirely and absolutely at the mercy of the three accomplices, and it is upon evidence of such witnesses filled with other inconsistencies that you are asked to deprive the Gaekwar of his honour, of his property, to cast him forth as a helot in the world from whom all would shrink, a man whom, if you were sitting here in another capacity than that of Commissioners—if you were sitting here as jurymen—a man whom without hesitation you would hand over to the stafford. And the result is asked of you, to be

arrived at upon the evidence of men admitted by my learned friend to be accomplices, and show I think by this time at all events which I have ventured to hope or implied to address you to be accomplices without a shadow of foundation I will now—and before going to other evidence, because I may do so with propriety and conveniently—refer to the evidence of Colonel Phayre. Speaking in a somewhat unaccustomed climate, my Lord, I find it difficult to maintain my voice. I said that I would refer to Colonel Phayre. He is the centre figure in this extraordinary story. I have no wish to say a word more than I am absolutely obliged to do that can possibly hurt the feelings of Colonel Phayre who, I have no doubt, is a thoroughly upright and honourable man and a gallant and distinguished officer, but I venture to think that Colonel Phayre was entirely unfit for the position he held, an extremely delicate one, and he was known by the Gaekwar to have met with a reprimand of most serious kind, not involving but on the other hand concerning his honour and integrity. It dwelt upon his want of tact and judgment in the management of delicate affairs. I think I am not putting it unfairly. He said, and no doubt truly, that a subsequent Governor cleared him from this imputation. This gives me I know dissatisfaction, but, on the contrary, I never wish to use that document as being in condemnation. I used it simply as one of those documents acting upon the mind of the Gaekwar is, that Colonel Phayre was scarcely the person to occupy the position he did, and that eventually he would be removed upon a complaint being made. Colonel Phayre most impudently associated himself with a person or a number of persons who were not friendly to the Gaekwar. Bhow Poonakur was a specimen of the lot. They say they, or no money, but they got patronage, which was probably very much more valuable to all these men than Colonel Phayre seems entirely to have been himself. From mixing with these men, Colonel Phayre comes to the conclusion that Bhow Poonakur—God only knows how he comes to—the conclusion—is or was an honourable man. We know not upon what grounds he came to that conclusion, but he made a right-hand man of him who had been so active against the Gaekwar. Then Colonel Phayre has a great notion of redeeming persecuted people. He was the saviour to whom the people looked and made entreaties to. When he drove out he was met by persons who pitied him, and he was a ready listener to all their complaints. Such demonstrations are not gratifying to the vanity of some people, but are little proof of the truth of the complaint. Knowing as they did that his ears were open to any calumnies that might be uttered against the Gaekwar, ready enough to give ear to such malignant food to his imagination, and to listen to those who would make assertions which he would readily accept. I have already alluded to what must have been the feeling of the Gaekwar when he saw Colonel Phayre in daily, almost hourly, communication with Bhow Poonakur, how he was absolutely in his hand, and how absolutely impossible, therefore, it was for reforms to take place. Was there no way of accomplishing that which the Viceroy had considered would take a period of two years or a year and a half to effect, but he was to be thwarted that way? Colonel Phayre also seems to have been labouring under the idea that he should be poisoned. Where he got it from Heaven knows, but one can very well understand that persons like Bhow Poonakur who talked about bazaar gossip, impregnated a mind like Colonel Phayre's with notions of that character. Then we have a circumstance that also occurred which I shall have to speak of afterwards. Somewhere about September or October, Colonel Phayre had a boil on his forehead. This boil will not be altogether unimportant in the case. I think a good deal turns upon it. There is a curious episode connected with it, and if anything can be humourous in this case, thus

forms one. There is no doubt whatever he had a boil. He and the attendance of a distinguished medical practitioner to take care of this boil. Where he got the idea into his head, and how he got it there nobody knows, unless he had read over Damodur Punt's evidence and recalled matters to his mind, and then come to a sudden conclusion, because he appears at the time not to have made any observations on the subject. He complains at that time of having been sick, not liking his pummelo juice. Dr Seward was not asked upon the subject. I know collodium was mentioned, but Dr. Seward would hardly apply collodium to an open boil. If he did apply collodium, it fully accounts for the feelings he described, but it is clear that he intended to convey that something was done to the blister put on which he describes. My learned friend corrects me, and therefore the observation does not apply. I did not remember that he used anything else, and I did not remember by what was said by one other witness by what was to be put on the place. My friend mentions this, and it is to support the testimony of Rowjee that he put certain powders into his pummelo juice. A peculiar matter is that Colonel Phayre drank his bad pummelo juice without complaining. It occurs to me that the best tempered man in the world on drinking bad pummelo juice would say, "What on earth is the matter with this?" but Col. Phayre seems to have been in a Christian spirit, and said nothing about it. He simply did not drink, and this occurs on three successive days with no complaint, no alteration, no enquiry. I think you will agree with me that conduct is of a kind which can hardly be accounted for. He says so, however, and I accept his statement as such but I do not accept it as being what actually took place, and I cannot help thinking he has been born, over the evidence of other witnesses, and that he is inclined to attach to that an importance which has only been created by the assertions of other people. Of course I may be wrong on that point, but it appears to me to be extremely possible. Let us look at it as if we are considering it with Rowjee's? If his account is true, he really took out all the arsenic from the paint he had received, and deposited them in a other paint and practically only used the diamond dust. Practically he only used that which, supposing it to be admitted, is perfectly innocent matter, and can cause no pain nor inconvenience. It certainly does look as if it very likely worked upon his mind, and that he had recollective feelings which he never experienced, by reading depositions that an attempt had been made to poison him. Then, my Lord, we go on to the subsequent period, the 6th, 7th, and 9th of November. On the 6th and 7th the same incidents occurred. The same symptoms that he had experienced in September and October, and again experienced on the 6th and 8th November, the very same that he afterwards experienced on the 9th. To say the least of it, this is extremely peculiar, because according to the evidence of Rowjee he had not put the poison upon the 6th and 7th, and therefore Colonel Phayre found he had these symptoms upon those days, after he had supposed that poison had been administered upon these particular days. The pummelo juice was bad, again he tasted it on successive days, and was not able to drink it all, and again he was perfectly subservient, made no complaint, not till the 9th of November did it strike his attention that poison had been administered. Now, my Lord, there is upon that one or two matters that I confess are matters that I am unable to fathom. At one time it occurred to my mind—I do not say it occurs to it now—but it did occur to it, and to the minds of other persons, and I wish to offer it as an argument to you, and that is that there was no substantial, real intention to poison the Colonel. I shall have to address many observations in which that point will be an important one to consider. It occurred to me as very strange that persons having such complete access to poison,

having also complete access to Colonel Phayre, with a perfect knowledge of his habits, with an opportunity with them, it occurred to me as extremely strange that for a long time no attempt should be successful, and that in reality no serious inconvenience arising from what was said to be repeated attempts to poison him. That was a matter which it was impossible to lose sight of in a case like this presenting such extraordinary circumstances and so many impossibilities. But when we come to the ultimate act, the description of it greatly puzzled me, and puzzles me to this moment. Colonel Phayre was very resolute in saying that the sediment at the bottom of the glass was a dark sediment. The other witnesses all spoke of light grey powders, and undoubtedly if that which was analysed, and if the analytical tests have been correct, and if we are rightly informed upon the subject, beyond all question the powder analysed did not in any way answer the description given of it by Colonel Phayre. The tumbler had been put down, and after it had been put down, and after it had remained for, if I recollect the evidence rightly, about half an hour, he threw it away, and then was attracted by the appearance of the contents at the bottom. Now you will remember what Dr. Seward said upon that subject. I received his evidence upon a number of things and I assured him that it was not my intention to offer him the least offence, but directly I spoke about the colour of the powder in the glass he got out of temper and proposed to keep me here till Doomsday. It seemed to me perfectly clear that it was a puzzle to him which he could not make out, for the powder which Colonel Phayre saw was dark, while that seen by Dr. Seward was light. I do not mean to say that the eyesight of people does not deceive them occasionally, so that that which is light may appear to them dark, and vice versa. I have heard that such cases sometimes occur in regard to colours, but to say the least, it is unusual, and the fact remains that between Dr. Seward and Colonel Phayre there is a direct and altogether irreconcilable difference. Now, the powder—at all events, if it was the powder that really remained, for I confess, that I cannot understand the difference of the colour I have alluded to—was sent away for analysis, I shall be obliged, when comparing what Rowjee and Nursoo and one or two of the other witnesses said, to refer again to the circumstances that took place on the morning of the 9th. In the meantime, however, I pass away from it. In analysing the powder, Dr. Seward applied a test which is not always carried out with success. And from Dr. Gray's evidence I do not understand that the arsenic was really reproduced by either himself or Dr. Seward, although they both refer to the discovery of a metallic ring. There is no doubt that this metallic ring indicates arsenic, but it is not an absolute proof, and I know that in cases of arsenic poisoning tried at home, the scientific men employed have generally brought out the arsenic itself in its pristine form, and not relied merely upon the appearance of this metallic ring. With regard to the diamond dust it is entirely idle to say that any whatever has been found. It is pure nonsense to say so. There are some sparkling elements and something that scratches glass, but to say that it is diamond dust is utterly beyond any possibility of proof—it cannot be proved. It is the purest guess-work imaginable to speak of the presence of diamond dust, and to accept scientific disclosures upon such a subject as the merest trash, which I do not think will have any weight upon the minds of the members of this Commission. Of arsenic there is a certain amount of proof, supposing that the powder sent for analysis was the identical powder which was in Colonel Phayre's glass at the time he showed it to Dr. Seward. I am well aware of a positive declaration by Colonel Phayre that the glass could not have been touched or the contents added to it before he

gave it to Dr. Seward. But I do not think that positive declaration will go far, because there were a number of people who had the fullest opportunity of touching the glass if they wished to do so, and his positive declaration may have been due to his preconceived idea that he had been poisoned. In making these observations I am not propounding a theory which I undertake to prove or substantiate. I am only remarking upon the peculiarity of the evidence at this part of this case, and the reflections it gives rise to and the difficulties presented by those matters to which I have taken the liberty of calling your attention.

It was now past two o'clock, and the learned Sergeant said that the day being Saturday, the Court should rise for the day. He was, however, willing to go on if their Lordships desired it.

The President If you feel that physically you require a rest this afternoon, we shall certainly not press you to go on.

Sergeant Ballantine I must put it entirely upon myself, as I think I should like a rest this afternoon.

The President For the reason you have stated we shall not go on, although I regret that there should be any loss of time.

Sergeant Ballantine thanked his Lordship the President, and said he had already gone through a considerable portion of the case, and probably by Monday he would be able to see whether he could not condense what observations he had yet to make.

The Court then rose.

SEVENTEENTH DAY.

BARODA, MARCH 16,

YESTERDAY, at eleven o'clock, the Commission resumed its sitting. His Highness Maharajah Scindia was unable through illness to attend. Sir Lewis Pelly was present for a little while in the forenoon, and His Highness Mulharao was present throughout the day.

As on the previous days, the Advocate General and Mr. Inverarity, instructed by Messrs. Hurn, Cleveland, and Lee-Warner, appeared for His Excellency the Viceroy in Council, Sergeant Ballantine, Mr. Brunton, Mr. Purcell, and Mr. Shanstan Narayan, instructed by Messrs. Jeffeson and Pelyne, appeared for the Gaekwar. Mr. Vasudeva Jagannath, pleader of the High Court, also watched the proceedings on behalf of His Highness.

Mr. George Taylor and Mr. B. M. Wagle were present on behalf of the Raeeses and the infant child of His Highness the Gaekwar.

On the assembling of the Commission, the President said I am sorry to say that His Highness the Maharajah Scindia is unwell and will not be able to be here to-day.

Sergeant Ballantine then rose to continue his speech for the defence. He said In my observations, my concluding observations, on Saturday, there were one or two matters in which I made a slight mistake which, with your permission, I will make right. These were mistakes only in regard to dates, and rather detract from the arguments I used than otherwise. In speaking of the date of the first poisoning, I fixed it as August or September. I think it is fixed by the witnesses, or rather by the only witness in whose evidence there is pretence to truth, at about fifteen or twenty days before the 9th November. I wish to direct attention to that date, because when I come to the latter part of my argument it will form a somewhat important feature. The second matter is that, as far as I can see, the last money payment actually proved was not later than July. I put it later on Saturday, but on looking through the evidence, with the assistance of my learned friends, I find that it certainly was not later than July. That also in my view is an important matter to consider, and, therefore, I correct what to a certain extent was an error which I felt I must correct. My

Lord, there was another subject which I introduced casually. I did not attempt or intend to follow it out at that time. It will be a subject upon which I may have to say something hereafter, but I may here supplement what I have already said on the deposit in the glass of Colonel Phayre, as described by himself, after he had drank a portion of the sherbet. Looking at the number of attempts, putting them even at four or at six, according as your Lordship might be satisfied with the evidence such as has been given before you—some sort of evidence, however, fixed six attempts—and upon every occasion Colonel Phayre was prevented from drinking the whole. He only drank a very small portion of it. That was the case in every attempt, and the reason was that there was some peculiar taste which prevented Colonel Phayre drinking the whole. Now the only agents were arsenic and diamond dust, neither of which produces any taste whatever, and there is no doubt whatever that a person might have drunk the entire glass of liquid, without finding that there was anything deleterious in it for a full half hour after. I believe that is spoken of as the nearest time the poison would be felt. Having accidentally alluded to this matter on Saturday, because I thought it was worthy the attention of the Commission, I wish to be remembered after I have discussed the evidence of Damodhur Punt and others. I propose now to enter into the investigation of the evidence of the grave charges against His Highness. The order I propose to-day to follow is to commence with Damodhur Punt. It is evident he originated everything, and that he is the source from which whatever poisons were obtained, were got. There is no suggestion that any other person or persons originated the procurement, and no other person supplied the poisons. It is traced back to him, it is fixed upon him, and as his testimony refers to the earliest portion of the case, I think it will be well to begin with him. My Lord, in discussing the evidence of this witness, as well as the evidence of Rowjee and Nursoo, I do not think it will be improper, before entering into the details, to allude to the way in which their evidence has been obtained. I alluded to the matter shortly on Saturday, and in now following up the subject, I wish to make clear that the way witness is treated affects the mode in which his testimony should be received. It is extremely desirable, when evidence has been obtained from people who appear before a tribunal like this, in the character themselves of accomplices, as material witnesses, to ascertain how their evidence has been obtained. I do not wish, indeed, it is always disagreeable, to make observations detrimental to other people, but I am obliged to refer, not only to the persons who have had the management of affairs, but to others. Mr. Souter is an extremely able man, and holding, I believe, a position of importance in Bombay. He was perfectly well acquainted with the reputations of all the other persons who are the remarkable personages in this case, Gujanund Vitthal, Akbar Ali, and Abdool Ali. He was quite aware of the censure which had been passed upon them by a gentleman who is acknowledged to have been one of the ablest men who has ever been an honour to the Bench of Bombay. He must have been well aware that this censure, whether just or not, was sufficient to throw upon them a suspicion which should have prevented him trusting them so much as he did. Surely he could have found police officers enough in Bombay sufficient for his purpose without having them brought from some other district. No reason has been given for having them so brought, and having had comments passed upon them, because, it was supposed they had been falsifying evidence and under the circumstances, whether they were charged falsely or not, there ought to have been great care as to the amount of power left in their hands. The mode in which the statement has been given is also a matter to which I must call attention, and I call attention to it very earnestly, because it is a feature which I believe will attract attention

from one end of the country to the other, and indeed in all the civilised world. These policemen have been allowed to take persons into custody for a certain length of time, and in what seems to me an illegal manner, and not until after that time, Mr. Souter comes forward and takes their examinations.

The mode in which those examinations were taken I wish to defer commenting upon until I have to deal with each individual instance. The persons who are material witnesses, are persons who have been placed in custody, and a considerable time thereafter and not till then, are they supposed to make their statements. I shall presently show that if the statements are not satisfactory, they are subsequently got up by additions and alterations. I shall point this out when I deal with that individually rather than generally, but I will just make this general observation, that the witnesses were worried indeed tortured, before they gave their evidence. You do not put on the thumb screw, you do not stretch them upon the rack, but you put them in misery and terror. They are living under circumstances that, from what I have seen of many of the persons who have been called here, produce abject terror. They feel that their lives, their property, their hope, their everything is dependent on what they do while in the custody of the police, and the only mode by which they can escape from that custody is by giving that character of evidence that the police desire for the purpose of carrying out their wishes. In the towns of India such a course would not be endured in the towns of India I believe it would be absolutely illegal. It is practised here in a distant district where there are only ignorant natives who do not know how to defend themselves, or to whom to appeal, men who do not know of any constituted tribunal to help them in their difficulties. They feel that they are powerless, and that the police have such power as they cannot resist. The police have them completely in their hands and they go the length of absolute torture to obtain their ends. I have made these general observations after reflection and thought, and I feel they will be observations weighed not only by your experience but by the knowledge and intellect of many others, and I believe that in this case will be found thorough proof of the observations I have ventured to make. Having made them, I now proceed to consider the evidence of Damodhur Punt, the man whom, as I have said before, is the *fons et origo* of the entire case. Because, though examined at a much later date than the other witnesses, he is the person from whom everything is supposed to have originated, who is supposed to have been the immediate agent of the Gaekwar, and therefore a man whose evidence you are bound to consider with a great deal of care in order to ascertain whether it is evidence on which you can rest. I am speaking to men as I would wish to be spoken to. I desire in this case to introduce no violent expressions, I desire to use no words but those which are justified by their being argumentative. I believe conscientiously that if I can convey the thoughts upon my own mind and the impressions that are upon it, I believe that if I can convey them to the tribunal I have now the honour of addressing, that the safety of the Gaekwar is perfectly clear, and that it would be perfectly impossible for any tribunal in a civilised country upon such evidence to pronounce a verdict adverse not merely to the Gaekwar, but to the lowest person in the land, if evidence such as been produced avails against a person who, if he falls under it, loses his crown, his character, and all that is near to him, as I said before, lose it under circumstances which I cannot help thinking would not be fatal to the humblest in the land. Before entering with minuteness into this evidence of Damodhur Punt I must refer to the mode in which it was given. It appears he was taken into custody on the same day as the Gaekwar, and instead of being brought before any magistrate, instead of being confronted with his accus-

ers, and having the matter investigated fairly, the first thing that is done is to put him under a soldier's guard, and under that guard he remains for seventeen days. To speak of being under a soldier's guard may not seem very terrible, but with the thoughts that must follow it, and the feelings that must attend it, I think I have not improperly termed that kind of confinement a kind of torture. The man says I made a statement for the purpose of getting free from that guard, and probably whatever doubt you may have on the rest of his testimony, you will not have much difficulty in thinking he is telling you the truth in that. Then he makes a statement and is handed over to the guard of the police. He knows at this time the evidence both of Nurseeo and Rowjee. This he admits himself, and if he had denied it, it is palpable he knew it. He therefore knew the gravamen of what they stated was a charge against the Gaekwar, that that charge was a charge of poisoning by arsenic and diamond dust, he therefore had only to arrange something or another in which arsenic and diamond dust are mixed up. But in addition to that there is a shadowy account of a bottle, and therefore he must introduce that, and although he is the first person brought into this case as supplying the bottle, he only gave it long after he knew what was expected of him. These were matters with which he was perfectly well acquainted and ready to deal with under the circumstances which he himself describes. What these circumstances were is worthy of consideration. They have been described by himself. There is a perfect understanding, and the position of this witness is, "if you convict the Gaekwar you get off, if he gets off you will be punished," succeed in what the police require, and you will get off, otherwise you must bear the consequences of your own admission, succeed, and you have your liberty, possibly a grant of land." Heaven only knows how perjury of this kind is ultimately rewarded, otherwise the punishment, I do not know what it is, of having committed perjury or attempted murder. I do not know I have ever met with an instance in which a witness has come forward and has made such a direct avowal that he stands before you with a halter round his neck which will be used or not according to the evidence he gives. Still there are marvellous instances in this world, in which, notwithstanding so painful a position, a man has sacrificed everything to the truth. I do not think the warmest admirer of Damodur Punt's would think he would make such a sacrifice. He is moreover the cleverest among the witnesses, an eminently cunning man, and gave his evidence with considerable volubility, although I could not help thinking there was an appearance about his countenance as if even he felt ashamed while he was uttering what I shall show was perjury. This will make it necessary for me to consider that evidence not only in relation to its consistency with itself, but also in relation to other matters, and I think when I have done so, and have called your attention to the evidence of other witnesses, I shall show not only that he has deliberately falsified a great variety of matters in these statements, but also that he has been most active in providing a great deal of the evidence produced before you. I more particularly refer to the evidence of Hemchund, which was manifestly extremely suspicious, as you were of opinion when you allowed him to be cross examined. His evidence I am now in a position to consider, and I think to point out such material matters in connection with it as will have a considerable effect in the decision of this case. I think I will show in this case police manipulation of the most daring kind. The first matter to which I will call attention is the position of this man Damodur Punt. Permit me to describe it as it occurs to my own mind, I do not think it will be a fancy sketch at all. Secretary and trusted servant of the Gaekwar, he is in a position to have His Highness's confidence I admit. So far they may be enabled to say part of his story is probable,

but his position, as he describes it himself, is one of a man whose accounts are rotten to the very core. False entries in all his accounts, false representations as to what payments have been made for, and in point of fact he places himself in a position that if he had been charged by the Gaekwar, upon the suggestion of Colonel Phayre, which was extremely likely, of embezzlement and fraud, he would have had no earthly answer to these charges. His books would have told their own story, and supposing there was no charge against the Gaekwar, I should think he might have lowed himself deaf before a court of judges, before they believed that the falsifications were made at the Gaekwar's direction. He being the accuser, while admitting the falsifications, accuses the Gaekwar. But supposing the charge had been made against him, how on earth could he have rescued himself from the certainty of being convicted as a fraudulent servant. I pointed out to him what his position was, and he admitted that which I am now stating that he had nothing to answer, that he had no means of rescuing himself from the imputation. The suggestion that was patent, and that I now venture to make to you is this, is it at all likely that he would have become the instrument of the Gaekwar for the purpose of falsifying books, which falsifications admitted his own dishonesty, and to which, if he himself were accused, and the Gaekwar chose to be a party to the accusation, he would have no earthly answer? And upon that point there is not a scrap of writing in the Gaekwar's handwriting, not an act done in the presence of an independent witness, by which in any way whatever, from the beginning to the end of this case, but more particularly with regard to the falsifying of these accounts, by which he might have exculpated himself from a charge of embezzlement and fraud. It is difficult to imagine that he would not have supplied himself with some means of protection, but have left himself entirely in the hands of a master, whose object he must have known would be after a time to get rid of him. In the history of villainies attempted in which great people are pleased to use small instruments, we always find these instruments supply themselves with the means of implicating their principals. My Lord, there is another matter, and that is, that, although his hours at the palace were from eight in the morning till ten at night, with a short time for dinner, these visits which have formed a material portion of the early part of this case, and which one would have thought were perfectly known to him especially if he was an accomplice of the Gaekwar seem to have passed without his notice, and he does not seem to have been a party in any way consulted in the matter. It is one of those inconsistencies which I think occurs to our minds, and it leads the way only to another observation,—if the Gaekwar was in point of fact dealing with a parcel of servants and others, and had a desire to obtain information, or to commit the graver crime with which he is charged, if he had a ready and facile instrument in his Secretary, why did he not leave him to do the dirty work, instead of bringing himself constantly into the presence of persons every one of whom would be able to testify against him. And one of the remarkable features of this case, as I said before, is that it seems the Gaekwar rather took a pride in the numbers of persons he took into his confidence in a vital matter of this kind. And really the mode in which these meetings are supposed to have taken place, and the perfect sanguine with which the Gaekwar is supposed to have told his intention to the humblest, and I should have supposed the most dangerous of people in this extraordinary case a remarkable feature. When I refer to some of the evidence which has been given as to the circumstances under which these meetings took place, and the conversations which took place, I shall earnestly ask the members of the Commission, who are also natives of this country, to attend to some of the observations which I think will be particularly adapted to their knowledge of the habits of the

country, and upon which I think they may give very valuable information, and be of very great use to the Gaekwar in this his terrible position. These matters I have dealt with, and I have endeavoured in doing so to do what I shall endeavour to do in the remainder of my address, having once referred to them to conclude my remarks upon them so that I shall not have to refer to them again, and I take this opportunity of saying that these observations are not simply observations that apply to this branch of the case, but their application will be found when I go to deal with other portions of the case in detail. But once having called attention to them, I hope I shall not be induced by forgetfulness or otherwise again to allude to them. Having disposed of his relation in regard to the accounts let me ask you to follow me in the history of what he alleged himself to have done. It will save time and enable you to follow me through such parts of my argument as are worthy of attention if you allow me to refer to the short-hand writer's notes Your Lordship will find in page 112 of the folio the commencement of this extremely singular transaction, and it commences with an order by the Gaekwar for arsenic from the Fouzdar, the account given by him being that the Gaekwar stated it was for itch, but that he himself worded it that it was for a horse. And his further evidence is "I took the order to the Fouzdar, but was unable to procure the arsenic. Now I ask the attention of the members of the Commission to that. He wrote the order, but was unable to obtain the arsenic that is his own story. It is a deliberate falsehood. He began by that which is entirely and absolutely untrue. He could have obtained that arsenic without any difficulty. The Fouzdar was called by my learned friend, and his evidence will be found at page 156. The Fouzdar says that the order was in all respects complete, and that there was nothing whatever to prevent Damodhur Punt obtaining the arsenic from the Fouzdar. As a superstructure is built upon that, the whole superstructure must fall to the ground with the falsity of that allegation. It will be broken to pieces by other means, but that alone is sufficient to destroy it. But that is not the only feature with regard to that order for arsenic to which I will call attention, and it will be very pertinent to other matters in this case. This was an order upon which the Gaekwar's name appeared, the Gaekwar endorsed it, and therefore, as far as we can gather, unless he was a lunatic, he actually put his own name on an order for arsenic which, according to Damodhur Punt, is to be used for the purpose of poisoning the Resident. There is another view that may be taken of this, and that depends upon the view that hereafter you will take of Damodhur Punt. Damodhur Punt may be a mere instrument of the police, and knowing that he is perfectly safe if he attain a particular object, he may have invented the whole of this matter. There is another view that may be taken. Damodhur Punt may have had some object of his own in obtaining the arsenic. Look what his position was at this time. Colonel Phayre was beyond all question using every means in his power to sift the proceedings at the palace, and sooner or later it must have been apparent to Damodhur Punt that his defalcations would have been discovered. Nothing could have been more fatal to Damodhur Punt than an investigation of accounts, and in all human probability other servants might reasonably be under the same apprehension. I have already pointed out what such an enquiry would have led to, and if enquiry had been made as against him, there is no doubt his position would have been sufficiently undesirable. He was in disgrace admittedly at the Residency; the Gaekwar was never to take him there again. Under these circumstances he knew that he was a marked man. He had a motive, the Gaekwar had none. Therefore it will be hereafter a matter for consideration whether the whole of his story is a lie, or whether in

point of fact when he admits he intended a murder, he has told a truth, and upon that point I shall make further observations hereafter, when I come to investigate the evidence that has been given by other persons, and I think, indeed I feel sure, that when I point out some matters that at present have not been called to the attention of the Commission, that extraordinary as I have already said the circumstances are that are before this Commission, there is passing through the whole matter circumstances that require the deepest consideration, and calculated to create the gravest doubt as to what the real history of this transaction is. Let me, however, proceed with his statement. Supposing he had any object in getting arsenic it is obvious why he did not get it from the Fouzdar, because if he had been mixed up with the use of it at any time afterwards, the name of his master upon it would have gone to trace the possession of it to himself. And while in these circumstances if the Gaekwar himself had been desirous to use poison, the last thing he would have done would have been to put his name on the order, if Damodhur Punt had wanted it the last thing he would do would be to put his master's name on the order, as it would be the means of tracing it to himself. Upon that, according to his own account, he represents to the Gaekwar that he cannot obtain some arsenic at the Fouzdar. Would not the obvious answer of the Gaekwar be, why all poison is sent out of the Fouzdar upon my order, and my order alone I have entire control of the business I have entire control of the arsenic. What do you mean by saying you cannot get the arsenic? And yet he allows the order with the Gaekwar's endorsement to remain in the records so as to convict him of attempting to obtain arsenic in the event of any charge made against him. The Gaekwar hears the reason given by Damodhur Punt that he cannot get the arsenic and without a single observation or comment tells him to go elsewhere to get it, and under circumstances at which I now arrive and to which I will call your attention. Upon his statement that he cannot get arsenic at the Fouzdar he is directed to go to Noorodeen Borah and get it there. Now here we have another curious interlude or episode in this remarkable case, and here we have again an example of police management and arrangement. We have a good view of the liberty that the subjects have whether they are respectable tradesmen or not of this community, if the police choose to interfere with them. He gives a long account of going to Noorodeen. I can quite understand why he fixed on Noorodeen Borah. Noorodeen Borah, as will be remembered, was one of the complainants against the Gaekwar at the Commission. He complained of having been fined Rs. 2,000 unjustly, and he complained of a relative having been flogged. He was a man then that might well be esteemed to be a bitter enemy of the Gaekwar, and one can very well understand why it was that Damodhur Punt selected him to vouch as being the man to whom he applied for arsenic. It occurred to him that this man would be only too glad to say he had done it. He is a man who has feeling enough, for aught I know just feeling, against the Gaekwar, but he seems to have been at the same time an honest man, and how has he been treated. Because he refused to come up to what the police demanded of him—confirmation of Damodhur Punt's statement—he is kept in custody, and has been kept in custody for months. According to Akbar Ali, I believe he has been left in prison, because they could not get anything out of him, and Akbar Ali with a smile, the very reverse of benevolent intimated in passing that there was something or another to reserve for him that he would not at all like. One is not, therefore, surprised that he has not made his appearance to confirm Damodhur Punt on the subject. The police have done all they could to make him, they have threatened him and tortured him, but they cannot make him yield, and enemy as he is to the Gaekwar, he is one spot in this case in which

adherence to the truth has made a man suffer torture and degradation rather than be made the instrument of torture against an innocent man. So much for the arsenic. Oddly enough, it does not appear by the depositions that he was ever taken before Mr. Souter, and that illustrates what I have said, that nobody was taken before Mr. Souter until a proper course of police manipulation had rendered him subservient to their purposes. As far as I remember, there is no evidence whatever that Damodhur Punt ever obtained any arsenic at all, no evidence I mean beyond his own assertion. His assertion is that he obtained it from Nooroedeen, and I think the observations I have made on that subject show that that is absolutely false. If he did obtain it, he obtained it from other sources. He makes no suggestion of having got arsenic from any other quarter. This is the arsenic that permeates till it is supposed ultimately to reach the sherbet of Colonel Phayre. I am not aware that there is any other suggestion of arsenic being obtained. Possibly there was some suggestion of arsenic from the other Borah. They have his books in their possession, and if there is any supposition of arsenic being obtained from him, they have the evidence in their hands to prove it, I think the next portion of his evidence it will be desirous to deal with will be the evidence of what he calls the physician's stuff. I have before me evidence given before Mr. Souter, and from part of it I will take the liberty of reading. It will save me the trouble of description, and I think his description is as graphic as I could give. He says—"At the same time, namely, when the Resident had the open wound, the big physician's younger brother brought a bottle of poison made up by the physician, but as there were many of us present, he did not give it at that time, and he may also have wanted something for it. In the evening one day, when Colonel Phayre had the boil on his forehead, the Maharajah told me to get some blister flies to send to the younger brother of the big physician. He told me to send through the Fouzdarree and have the Wagries sent to catch some flies and taken to the physician. I told Narayenrao Wakusker, who is in the Fouzdarree, accordingly. The next morning the Maharajah told Hariba, in my presence, that the physician's younger brother wanted some snakes to make medicine. The snake man came to me two or three days after, saying he had the snakes that had been ordered, and I told him to take them to Hariba and take his order before going with them to the physician. Narayenrao brought the blister flies taken by the Wagries and showed them to me, and the next day Goojaba, a servant of Nana Khanwelker, came and showed me some blister flies of the same kind, and I told him to take them to the physician's brother and submit them for his approval. About the same time the Maharajah told me that the physician's younger brother wanted the urine of a black horse, and I gave orders to Bappaje, the kamdar of the Khas Paga, to take some urine accordingly to the physician's brother." Now I do not know what state of darkness this country may be in, but certainly this story reminds one much more of some Eastern tale of a former time than it does of anything that could have occurred in the 19th century. At the same time on that subject you are so much more capable of forming an opinion than I am, that I will not pretend to offer any argument on the subject, but will leave you to judge of the probability of it. But passing from that I call your attention to what is done with it. I may as well, however, mention here that I think my learned friend began to get a little ashamed of this particular part of the case. I do not think those blister flies at all suited with his keen and acute intellect. I think he had a sort of suspicion that it was going a little too far, but inasmuch as it was down on these depositions, he properly enough proved the whole thing from Damodhur Punt's mouth. But he could not go any further. I expected, indeed, we were promised the presence of the snake-man. We might have heard how the poison was extracted. We

might also have had valuable information about the blisters as to how they affect the human body. And as to the other article, some account might have been given by the man who was deputed to procure it; but my learned friend has not called any of these sages to give us information upon the subject. But, as far as I am aware, all these articles were compounded into a white liquid and used in the way I am about to describe—"The Maharajah wanted the stuff, but did not want to give what the man demanded, so suggested to Nana Khanwelker to get some of the contents of the bottle, and a day or two after, about 9 o'clock at night, Goojaba came to me with the bottle which the physician had made, and told me that he had taken it to the Maharajah, and that he had been ordered to bring it to me, and that I was to take some out of the bottle and keep it till the next day, and then give it to Salim. I poured some out of the physician's bottle into a small bottle of mine, which had held attar, and gave the other bottle back to Goojaba, and the next day Salim came to my house about 9 o'clock and I gave him the bottle to take to Damodhur Punt to poison the Lhalib. Thus I understand—

Applied to Colonel Phayre. I shall have to follow that bottle presently through a variety of stages. It is almost a comic episode in this otherwise serious case. But we trace it now from its source and it will not escape your attention, the account that Damodhur gives of it, because you will find that when we are considering Rowjee's evidence that account is extremely material. He says the first bottle brought was about "this length". He did not use any other term, but said that the first bottle was about a finger's length and that the bottle he put it into was about half a finger's length. This will be extremely important, because it will be a means by which the utter falsity of the whole story told by Rowjee will be developed. He tells you further that it was put into an attar bottle. Now, I do not know any particulars of an attar bottle but I believe it is perfectly well known what they are. They are bottles having a very thick coating of glass and a very small quantity of the attar in them. Probably the space to hold the liquid is almost infinitesimal, and when you consider an attar of rose bottle the size of half your finger, you will agree with me that it is not calculated to hold much liquid. But from all accounts this is the bottle which ultimately met with such famous adventure and came under such cognisance. And this is the bottle given to Rowjee and a bottle which I shall presently follow through its very eventful history. I pass away now. I have dealt with the arsenic, and I have dealt with the stuff as I propose for the future to call it when I have the necessity to allude to it. I have now to go to the supposed obtaining of the diamond dust. Now I venture to believe that there was never such nonsense talked as diamond dust being credited with being poison. I have looked into books of considerable authority, and I cannot find any trace of such a thing except in the work which has been quoted. However, as far as I know, there may be a belief that diamond dust is a poisonous material. But as far as I can understand it is if spoken of as being an article thoroughly well known. One would imagine that it was the residuum that came from diamonds when they were filed and cut and some dust might be produced. However, they are here presented to you as being the result of diamonds themselves being pounded, and it is supposed that diamonds were procured for the purpose of pounding them into diamond dust, and then using them in the way suggested for the poisoning of Colonel Phayre. It is odd that two or three witnesses I have asked on the subject declared that they had never heard of diamond dust in their life, from which it is tolerably obvious that it cannot be a thing generally known. It must be destroying a very valuable article, and turning it into a thing absolutely useless, and one would think

the notion of its being a poison would have been discovered long ago. However, I will accept the assertion made by my learned friend upon the authority of Chever's work that there is a superstition of that kind, which I will class with the superstition about the snakes and flies and other articles but diamond dust never came out of Damodhur Punt's place. Damodhur Punt never obtained any. Let us follow what he says upon that subject. I come now to a portion of the case that I shall have somewhat minutely to analyse, and I hope I shall be enabled to convey the ideas present to my mind upon the subject. He says "I got the diamonds through Nanajee Vitthal, I did not open it, (the packet) but it contained three masses of powder and nine masses of diamond. I know this from what Nanajee Vitthal told me." This is an important portion of his evidence as you will observe when I call attention to the evidence given by Nanajee Vitthal when he says, "I gave the diamonds to Yeshwantrao. He said they were to be made into powder and given to Colonel Hayre I said 'this is not good, this is bad.' A sufficiently mild mode of talking of an intended poisoning, but this is the evidence given on the subject. You will see in that statement that he first of all says there were three masses of powder. In his statement as to what was said, it appears from what Yeshwantrao observed, if his statement is true, that there was no powder given to him at all, for he simply makes the observation that the parcel given to him is to be made into powder, not referring to the matter as if any powder whatever was given. Now I must pass by this period of this case. I have made observations upon the improbability of the Gaekwar taking such means as those imputed to him for the purpose of obtaining arsenic. I now venture to ask the Commission what they think of the way he is said to have obtained the diamond dust. Assuming diamond dust to be pounded diamond, why on earth should there be elaborate machinery to obtain possession of those diamonds? Why must a man be told to falsify his books, why must all this mystery be surrounding a transaction in which the Gaekwar has nothing to do but to take the loose diamonds he was using for ornamentation and have them pounded. He had diamonds in his possession, at that moment small diamonds were being used for the purpose of ornamenting the scabbard of a sword, his whole life he has been in the habit of obtaining diamonds, and has nothing whatever to do but take them. Why all this quantity of falsehood, why all this manipulation of books? In the same way as it appears to be manifestly absurd that there should be so much elaboration for the purpose of obtaining arsenic, I venture to suggest that it is equally absurd that there should be this enormous amount of elaboration for the purpose of obtaining diamonds. These transactions all took place in the absence of a single witness and are dependent alone upon the statement of Damodhur Punt. There is no collateral evidence of any kind. The diamond merchants are never said to be present, it is never said that the Gaekwar ever had any conversation with them, in fact, except through the medium of this most tainted and infamous witness, there is not a scintilla of evidence that the Gaekwar had anything to do with, or any knowledge whatever of these transactions. My Lord I pass over this portion of Damodhur Punt's evidence, in which he imputes certain conversations to the Gaekwar in relation to the attempt on Colonel Phayre. They come within the argument I have already suggested to the Commission. They are utterly and absolutely uncorroborated, there is nothing whatever in confirmation of them, and it is quite clear that they are matters, inasmuch as they are supposed to occur when Damodhur Punt and the Gaekwar were alone, to which it is impossible for the Gaekwar to give anything more than a general denial. I cannot do more, therefore, than refer to the character of Damodhur Punt, to the improbability of his story, to the impossibility of any human being, I do not care who he is, extricating himself from such a web of charges as those

brought by Damodhur Punt against the Gaekwar, if a man admitting himself to be an accessory to a murder or to attempted murder is to obtain immunity for himself by casting the crime upon another. But, my Lord, while there is no conversation whatever, or corroboration of any kind of the alleged statements made by the Gaekwar to Damodhur Punt, there is negative evidence that, in my humble judgment, goes far to rebut it. Every paper in the Gaekwar's possession was seized, and I may probably say every paper that had ever been in existence, because when we remember the statement of Damodhur Punt in relation to some of the papers, it does not appear that any were destroyed. I think that this is negative evidence, destroying the authenticity of Damodhur Punt's evidence, that there has no genuine document been found by which the Gaekwar has been personally implicated in having any knowledge of these transactions. I use the term personally implicated for the purpose of distinguishing between what Damodhur Punt has put forward in confirmation of his own statement, and what ought to exist for the purpose of confirming evidence of this description, namely, some confirmation which brings the accused, by word, by act, by deed, or by letter, into connection with the transactions. It is not pretended, except in one most remarkable document to which I shall presently call attention, that the Gaekwar was cognizant of any of the transactions Damodhur Punt was carrying on. In all the papers seized, searched, and investigated, there is not a single corroborative proof connecting him with the transactions of Damodhur Punt. But, my Lord, there are other things that are very well worthy of your attention, and they are matters I consider as being the strongest evidence that this case is a got up case against the Gaekwar. I submit what I am about to say to you with great confidence. It depends on no words, but on deeds and upon the construction the Commission will put on these acts. It does appear to me to be a most signal and remarkable thing, and I think it struck the members of the Commission at the time the matter was being investigated, the story of the obliterations on particular parts of these journals. It strikes me as being all important. The mode in which it is urged by the prosecution is that there are obliterations of certain words, or certain names, that connected Damodhur Punt with the transactions in question. That is the suggestion made on the part of the prosecution. Well I have had an opportunity of looking at the dates of these obliterations, and I believe I am right in saying and if I am wrong my learned friend will hereafter correct me, the dates of three of the papers so obliterated are 8th June, 2nd July, and 6th September—dates during which, the Commission will be aware, it is not pretended that any of these transactions took place, and therefore the obliteration cannot be for any earthly purpose of concealment, because during that time there was nothing to conceal. There is one obliteration as late as the 18th October. That may have been an obliteration of something or another occurring within some of these periods, but with regard to the other three they are on dates during which it is not pretended by any of the witnesses whatever that anything at all had occurred. Then, my Lord, there is another curious feature in this. Damodhur Punt did not obliterate the books himself. He says that he told an office clerk to obliterate them, and he vouches the name of the clerk so employed. That name is vouched by my learned friend and pledged in confirmation to Damodhur Punt's story. Well, he is called and absolutely denies the fact. Bulwantrao Rowjee is the name of the clerk. He is called and absolutely denies the fact. It is true we have the statement of Mr Souter that he admitted it on one occasion. (Mr Branson called the learned Sergeant's attention to the statement.) Oh! is that so? I am corrected by my friend. I thought Bulwantrao had admitted it to Mr Souter, but I find it was not so said. It now turns out that the man thus called to confirm,

and against whom there is no imputation, gives it more a general denial, and says it is an utter fabrication. He says "I never obliterated them, and I know nothing of it." I do not know that any human being would have obliterated it, except for the purpose of attracting the attention of whomsoever might see the books. My Lord, I do not believe it was done by Damodhur Punt, at any rate in the way he said it was. Is it in the range of probability and common sense that Damodhur Punt would have ordered these obliterations which would attract the attention of the first person who looked at them? I am told that some natives are not unskillful hands at obliteration, and it is ridiculous to suppose that any one really desirous to obliterate would upset large splotches of ink which would attract everybody's attention as soon as looked at. One cannot gravely argue this question. It seems to me to be the act of an unreasoning mind which cannot grasp the absurdity of the act. I appeal to this Commission whether any rational or intelligent answer was given to the question I put over and over again, why if there were any entries which he wished to conceal, did he not throw the whole lot behind the fire. If he had time to do the one thing he had time to do the other. But it is a manufacture. It is part of this vile case. It is short sighted, it is ignorant, it is what no man of ordinary intelligence would practice, because it carries its answer upon its very face and the man did so probably to delude you, or more probably he thought the case would not be tried before a tribunal like this, but perhaps before some one with no very great reasoning powers upon whom he could pass the outcome of his wretched brain, the thing answers itself. It answers it fortunately in a way favourable for the man whose innocence I am endeavouring to demonstrate after evidence of a grossly flagrant character has been manufactured, and it will lead me to look not only at the evidence, but at the manipulation to which it has been subjected. I think it is negative testimony of a very important character indeed, and in the light of negative testimony I will place it before this tribunal. My Lord, he admits, but to that I have already referred, that he was perfectly well acquainted with the statements Nursoor and Rowjee had made. He admits that before he was arrested he had heard of the alleged poisoning of Colonel Phayre by arsenic and diamond dust, so that his mind was fully prepared to furnish up some story or other in which the principal elements are diamond dust and arsenic, and also that there must have been a bottle of some medicine or other in the transaction. Now you have before you the evidence that Damodhur Punt has given upon the subject of the diamond dust. You have also heard my comments upon the subject, which it is a great gratification to me are not all likely to be forgotten, and will hereafter be treated with sound impartiality and excellent judgment. I make my observations as correct as possible, knowing that they will be answered as far as they can be answered by my friend the Advocate General, with all the ability and power of a man of his high position. I know that, recognising fully as he does the duties of his high position, nothing whatever will be said by him except in the fair interests of justice. He is not here to hunt an unhappy man off his throne, and no man is more likely to fulfil his duties with clearer and fairer dealing, whose acts are not on one side or the other, but who seeks that justice which will ultimately be administered upon the present occasion, and to which I have no hesitation in saying not only is the whole population of India of any intelligence looking with the greatest possible anxiety, but the greatest minds throughout Europe equally await that justice of which my learned friend from his power and ability—and both are great—will alone seek. My Lord, I now come to another part of what I may call the same subject. It is a part that will require some consideration and some detail, and in which I probably at first shall hardly meet with your

entire sympathy. I am alluding to the evidence of Hemchund Futtichund. Your Lordship will not forget the appearance of that unhappy individual in the witness-box I never in my life witnessed stamped upon a face, such an abject state of terror as there was upon his. He had made his statement to the police, to Mr Souter, which I shall presently read to you. He came forward to say that that statement was false, that he made it under intimidation, that he had gone through the process usually administered to witnesses, that he had been left in the custody of the police till he had been sufficiently bound to serve their purpose, that then he had said he had torn out a leaf and introduced fictitious items; that he had done so under the threats of the police, and that they had carried out those threats by giving him just a gentle hint, as he was going to Mr. Souter to verify his statement, by saying behind his back "you will go to prison if you do not sign." That is his account, and under those threats he made a false statement to Mr. Souter. The Crown produced him for the purpose of showing that diamonds were purchased from him by Nanjee Vitul, that £5,000 were paid him on account, that the same came from saving account and had been falsely entered by Damodhur Punt as having been paid away to the Brahmins, that is to say, that entry, saying they were for the Brahmins, was false, and it is meant the money was paid for diamonds, for diamond dust. A Brahmin was called to say the entry was fabricated for the purpose of accounting for that sum of money paid to Hemchund for these diamonds, that Hemchund's books contained fictitious entries—entries which expressed that £3,000 were received from Seewhund Koshalchund, when in fact they were in payment of diamonds. He also was called to prove that two entries at the end of his books debited Koshalchund with two sums of money for diamonds. These are the purposes for which Hemchund is called by my learned friend. I think, my Lord, that it is desirable here to read to you what Hemchund Futtichund stated before Mr. Souter. "Some few days after the last Du-sers festival Nanjee Vitul, in charge of the Gaekwar's jewel room, directed me and other jewellers to bring some diamond chips, which we did the same day and handed them to Nanjee, who retained them. The following day our diamonds were all returned, and we were told that the price did not suit. Two days after Nanjee Vitul directed me to bring my diamonds back again, they were weighed, the price settled, and purchase concluded. Four or five days later I was again sent for by Nanjee Vitul and directed to bring other diamonds chips, which I took to the palace accordingly. Nanjee Vitul was not present in the jewel-room. The diamonds were, therefore, handed to Venayek-row, Nanjee's brother-in-law, who weighed and priced them, and then took them along with me to Damodhur Punt, who remarked that the price was high, but kept them, saying that he would purchase them, if required. On this occasion the diamonds were in two packets, both of which were kept, but about four days after, one packet was returned to me." It is well that I should call attention now to what he said when he was examined. Up to this point his evidence and his statement are identical, with this exception, that he declares both packets were returned to him. Up to that time all his evidence is identical. He asserts now that both packets were returned to him, and he asserts that also when he gave his evidence. The question to determine is whether that is true or not. I will read further. "A few days after it became known that an attempt had been made to poison the Resident Colonel Phayre, Nanjee Vitul asked me whether I had entered the purchase of the diamond chips in my books, and if so, that I was to remove the entries in some way or other, as he was afraid that the diamonds in question had been made use of to poison Colonel Phayre. On hearing this I became afraid, and at

once caused the pages of my account-books, on which the sales of the diamonds were entered, to be removed and fresh page substituted. The three books now before me are those that were thus tampered with. The price that I was to receive for the diamond chips was Rs 6,270 of Baroda currency, and on account of this sum I was paid Rs 3,000 by Nanajee Vittal, which has been credited at pages 10 and 24 of the day-book as having been received from one Khemchund Khuasbal. A portion of the above sum of Rs. 3,000 was counted out and paid to me by Nanchund Sheriff of the Doonmala villages." Now I want very much to impress this upon the Commission—What is really in dispute here? He says that both packet of diamonds were sent back, and there was no transaction whatever between him and Nanajee Vittal. That is his statement made here, that is his statement made in evidence. But his statement, signed before Mr. Souter, is that the pages containing the transaction were torn out, but he goes on to say that which you will find to be quite inconsistent with their being torn out, he goes on to say that the account of these transactions to be found on pages 10 and 24 of the day-book, show that they are to be found as having been received from one Sewchund Kushalchud. And my learned friend says that this amount was of an entirely imaginary character, that there was such a person in existence having the address and being the man clearly intended to be Sewchund Kushalchund, but that he had never had any transactions, and never knew of any such transactions to which he was a party, and my learned friend pledged himself to call him to prove that no such transactions had ever taken place, and it appears that a statement to that effect was taken down by Mr. Souter. There was, according to my friend, no doubt about the person or about the transaction. Now comes what I think sufficiently exhibits the manipulation of the police, the subtraction of the truth from Hemchund's story, and the undoubtedly falsification of his books by the police themselves for the purpose of this case. When followed I think you will agree with me it is about as iniquitous and transparent a proceeding, when exhibited by light subsequently obtained, as was ever attempted to be foisted upon a court of justice. When Hemchund is called, he says refer to pages 10 and 24, there they are, they are not in the portion torn out, they are not pretended to be falsified they are the items which in examination before Mr. Souter he touched as proving the payments in relation to the diamond dust. At the very time that he was vouching this before Mr. Souter, Gujanund Vittal had in his pocket three bills of exchange which he must have deliberately suppressed, which he never produced to the light, till I challenged the production of the bill here, in which the history of that transaction is clearly and conclusively shown, and the improbability that they could have had any relation to diamonds proved beyond the possibility of a doubt. Now, my Lord, I shall implore your assistance in this case as men much more versed in such business matters as these than I am, contending myself only with just simply directing your attention to the prominent features leaving your Lordship to deal with the details which are extremely important. It appears that Nanajee Vittal had transactions with this Hemchund. I cannot help having a kind of notion what the nature of these transactions were. It appears according to Hemchund that some ornaments were purchased by the man I think I have already mentioned, a jeweller at Poona and it appears that the article of jewellery was in some way or other well-known to Nanajee Vittal. It was for his brother-in-law, and it was to be paid for, and he says it was paid for by these three bills of exchange. When I heard his evidence upon the subject—and I think he made it to your Lordship's entire satisfaction—that these bills did apply to that thing, and he gave the amounts of the bills, with interest on the original sum, and the total amounted to

Rs. 10,000, he was pressed upon the subject by my learned friend with great minuteness and distinctness, and he brought out that the amount was some nine thousand three hundred and odd rupees, and that the remaining rupees were for other transactions which had passed between them, and which would be found in his books. My learned friend was evidently astonished at these bills of exchange, and believing that the whole of the story was a thorough fabrication, as I believe his attention had never been directed to the true nature of the transaction, re-examined for the purpose of proving out of Nanajee Vittal's mouth that this story of the hoondées was a fabrication and falsehood, and would point to Nanajee Vittal being called and the goldsmith being called to prove that the whole thing was a fabrication, which it turns out again by the negative testimony that after all it is strictly true. Nanajee Vittal is called and never asked at all to deny, and the goldsmith who has been called and examined has never been called to re-affirm that statement that he never had any dealings with Hemchund. As far, therefore, as I can see, and inasmuch as there are written documents, before the Commission, these two entries declared to Mr. Souter to be fabricated representations of untrue transactions, turn out to represent a perfectly true transaction. With documents before the Commission, and in the absence of any contradiction by witnesses who were upon my learned friend's brief, and might have been called, I must say that Hemchund was a perfectly true witness when he says that he declared them to be fabricated entries, to get out of the hands of the police, and he now says "I say now that they are genuine entries I give you my account books, bills of exchange, and name of all the people concerned, and in contradiction there is only the statement of Nanajee Vittal. The matter is now conclusively proved by Hemchund to be a fair business transaction, and for this he is to be degraded and frightened by the police into telling a falsehood before Mr. Souter. I must say it really is a state of things which, taken in any point of view, must produce grave feeling upon the minds of all of us. The abject terror these men can create upon the minds of people when in the city of any civilised state, such men would be protected by their character—the way in which they can be dragged from their homes, dragged to the police, bullied, kept in confinement, promised deliverance if they will make a statement consistent with what the police want! Then we have this state of things that a deliberate false statement is actually made, made in the presence of Gujanund Vittal, made by his procreation, while at that very moment he has the means of proving—and has thoroughly satisfied himself—that both these items are entirely correct. My Lord, I am afraid I need utter expressions in condemnation of such a state of things. I confess it was with apprehension that the true state of things came at last into my mind. It was in doubt I allowed it to remain there for a moment. I did not feel that inquiry could go to such lengths, and it was not until I had thoroughly mastered the facts that I ventured to put it before you, who will perceive its importance without any arguments from me. Then I take it that if you are satisfied with my view, the whole case from the beginning to the end is foul and rotten, and that this forgery and fraud falls to the ground and must be crushed under the feet of every feeling man. Hemchund's evidence, however, is not confined entirely to that, nor are the falsifications of the books limited. These hoondées are not only referred to in this particular book, but are referred to throughout other books admitted to be genuine, and therefore they are shown to be a genuine mercantile transaction. It is very difficult quite to understand how this story is intended to be made out, because it seems rather blowing hot and cold first of all to impute to Hemchund the tearing out of the items which involved him in

this matter, and then call him for the purpose of vouching the very items themselves that appeared to be still in the books. It is very difficult to understand how they reconcile the two things. He is supposed to have torn out the leaves for fear of implicating the Gaekwar, and yet they say that the items now before me, appearing upon the book, were there at the time they were seized, and are genuine. I will ask your Lordship to allow the interpreter to translate this entry.

The President gave permission, and the interpreter read Debited to the account of Sircar Mulharao Gaekwar, 14 Ashad, delivered to Damodhar Punt by Nanajee Vitthal himself." Then follow the items.

Sergeant Ballantine Now you will observe by that, that so far from the transaction being concealed the transaction is patent. It is in a curious place certainly, because it comes upon the 7th or 8th November, so it would come at a very convenient time for the diamond dust which was supposed to have been administered to Colonel Phayre. It follows in a most remarkable way the evidence of Damodhar Punt, because it is delivered to Damodhar Punt by the hands of Nanajee Vitthal. I should venture to say that it is an entry which would not be found on any other portion of the book or in any book whatever kept by a tradesman. Therefore it agrees, and therefore if manufactured one can account for the terms of its manufacture. But how is it consistent with the trace being destroyed, how is it consistent with the destruction of the entries. There you find it, and find it at the very place a policeman would wish to find it for this case. And although I shall show hereafter, supposing it to be true that the diamonds could not have been used for the purpose it is pretended, yet remarking all the circumstances of the case I ask you to accept Hemchund's statement in regard to this matter. Hemchund says he was forced to make that entry. Take that fact, and you have again—Gujanund You have on the one hand a man, I suppose a respectable tradesman, at all events no imputation against his character is given, on the other hand, you have Gujanund, and you know the nature of his transactions I take the liberty of asking you to believe Hemchund against Gujanund. I ask you to do that from the evidence. I want you to look into that. I want you to note what men of business will say about that entry, is it a genuine one or not? Why it does everything for the police. They take uncommonly good care to drag in Damodhar Punt's name. There you find it. A date which is pretty well impossible, and then the whole is in direct contradiction to his original statement to Mr. Souter that the whole entries have been destroyed. Does it not then create strong suspicion that Hemchund is telling the truth, and I think that suspicion will be greatly increased when I call attention to another witness? I will go now, however, to Nanajee Vitthal, because he is the next witness, and I will call your attention to his evidence. Nanajee Vitthal is introduced as a go between Damodhar Punt and Hemchund in the purchase of the diamonds, and he upon his examination confirms what he has originally stated that one of those packets was purchased and one sent back, and he alleged, and I beg the Commission not to lose sight of this fact—that he alleges that these items of Hemchund upon which I have offered so many lengthened comments he accounted for by a hoondee—had in fact represented the sale of the one packet of diamonds. Nanajee Vitthal knows all about these bills of exchange. He knows all about the transaction with the goldsmith at Poona. The transaction is one for ornaments for his brother-in-law. The transaction, with which he is perfectly and entirely acquainted, and Nanajee Vitthal under all the circumstances was intended to be called to corroborate the evidence which originally had been given by Hemchund

and to contradict the evidence which he gave on the Saturday, and there is no doubt that the evidence he then gave would have been contradicted if the men had said what it was expected they would say. Hemchund, however, is a tradesman who keeps books. The transaction alleged to be one in which he was implicated, really relates to the purchase of ornaments which were paid for by bills of exchange to which he (Nanajee Vitthal) was a party. He was called as a witness and was never asked a single question upon the subject; and you are asked to believe that these items are applicable to the purchase of diamonds for poisoning Colonel Phayre. My friend let him go down without asking him a question on the subject. I do not know that it is possible to place a case more strongly, to have more forcible and convincing proof of the truth of Hemchund's statement. He, however, sticks to that which I believe you will believe to be a deliberate falsehood, viz., a packet of these diamonds—and I am not without warrant for saying it was deliberate falsehood, because the next witness, who is a servant or clerk under Nanajee Vitthal, and this is the evidence he gives "Nanajee Vitthal said to me, 'I am going to take the yard away because the diamonds have to be returned,' " That was in relation to the second packet of diamonds, and he distinctly stated to Mr. Souter that the yard was to be destroyed, inasmuch as the diamonds had been returned. This was a matter of surprise to my learned friend as I find, in his evidence to Mr. Souter, that he had returned the diamonds to Hemchund. That is what he said on the Saturday also. It is what Hemchund says, and it accounts for the bills of exchange. Clearly, then, the diamonds were in point of fact returned. No sale had taken place. No erasure or subtraction whatever of any matter was in his book at the items these pages refer to, and which are said to be false, but which were torn out by force, as Hemchund stated in his evidence, and, moreover, that as to the two last entries, in making them he was driven by *duress*, under force, because he was ordered by the police to do so, and I have no desire, and I do not intend to comment upon this at greater length. I have conclusively made out that he has told a true story, and that he is to be taken as a witness of truth. I am quite aware that he exhibited himself in no very favourable light when he was in the witness-box. At the same time it is quite clear, even from Gujanund's account, that though he knows something of Hindustani, he speaks it imperfectly, and we know that he gave his evidence partly in Hindustani and partly in Guzerati. If, therefore, he had said that he did not understand Hindustani that would have been reasonable enough. But to say that he did not know anything about it was absurd, and cannot be justified except by the kind of terror and fright which probably at that very moment he felt when he thought of the imaginary claw of a policeman on his shoulder, and was afraid for his life of saying anything at all. I feel that in these matters, I have a duty to do, to those who are persons making statements upon which I feel I can place great reliance. And when one considers the circumstances under which he existed; the way in which he has been treated, I shall ask you to use towards him the greatest consideration on your part. I shall have to call your attention in the evidence of Colonel Phayre to two or three points. I take it for granted that no one would deny that an educated man, in the confusion of a position unusual to him, when he made assertions which were not correct, and which no doubt he afterwards corrected, I say that no one will impute to him that he made wilful departures from the truth. I have therefore, to ask that in considering the evidence of this man you will make some allowance, remembering the circumstances of the case and the treatment to which he had been subjected. I have very little more to say on this branch of the case except that it is imputed to Nanajee Vitthal by Damodhar Punt that he gave to him—Damodhar

Punt—two parcels, one containing diamond dust and the other diamond chips. But Nanjee Vitthal himself says he does not know what diamond dust is. He has never heard of it, and he never gave any to Damodhur Punt. All he supplied him with was diamonds and, in regard to diamond chips, and small diamonds, there was an abundance of them in the control and subject to the order of the Maharajah, and that there was, in point of fact, a quantity at his disposal. So that you have in reality by their own witnesses every single portion of the case upon which the remainder of the case is built. You have it all disposed of. No arsenic, no diamond dust, doubtful if diamonds were sold, no proof they were the arsenic supposed to be got from Nooroodeen not in any way confirmed, the books which can prove it not produced and out of the very mint from which the coining was to come, and on which the whole case depends, from the beginning to the end, crumbles to pieces, and it leaves nothing but Damodhur Punt's story, unsupported by a single credible witness. With reference to Damodhur Punt he may be lying from beginning to end, or he may have intended to poison. I am not here to clear him nor am I going to clear him from his skulking, scowling lowering manner I could believe him guilty of any villainy. He is a person of cunning, not admitted to the person of Colonel Phayre, likely to have an investigation into his accounts by the Resident into whose presence he was prevented from going, and having himself, as I am sure you will believe, been guilty of a robbery of his master, an embezzler of his money, a fraudulent servant I say there was, you can imagine, a very strong desire to poison the person who would initiate an enquiry into his proceedings. And if he has used Salim and Yeshwuttrao to carry out his end I implore you, in the name of everything that is just and fair, to exculpate from the crime this villain who has committed that unhappy prince who is now reviving on the honour of those who are sitting here who has declared his innocence, and whom, I believe, the conduct will show to be absolutely and entirely guiltless.

The Court here adjourned for tiffin.

Sergeant Ballantine, after the Court recessed continued
There is a question which I omitted to which I ought to have called attention. I am told that Nanjee Vitthal vouches to a person having been present when the money was paid for these diamonds. Nemchund I luckhund with a good many discrepancies vouches in his evidence that a sum of money was paid for these diamonds. He was examined by Mr. Souter.

The President Have you any evidence?

Sergeant Ballantine I understand that these statements before Mr. Souter have all been put in.

The President Do you understand that, Mr. Advocate General?

The Advocate General "I have no objection to admit that Nemchund I luckhund made a statement before Mr. Souter.

Sergeant Ballantine It is rather important as Hemchund is attacked. The statement says, 'I was paid the money for these diamonds through—'

The President What page?

Mr. Branson Page 10 *Times of India*

The President If you think it important we can take notes of it after.

Sergeant Ballantine Thank you. I think now I had better go on according to my own view of the case. I have dealt with Damodhur Punt. Consider him to be the origin of the whole matter, although I am sure he was almost certainly killed. I will now deal with Rowjee and Nursoo. Now with regard to Rowjee I do not altogether propose entering at all events at this immediate moment into the details of his evidence because I rather wish to follow one or two episodes in this case which I think are of great

of the whole, and which had better be followed to their termination. I have already alluded to the bottle, but we ought to follow its career. We have got out of the hands of Damodhur Punt into the hands of Rowjee, a bottle about the size of half his finger a bottle holding a very small quantity of liquid. You will find that when it gets into Rowjee's hands—it is not pretended that there is any change of bottles—in his hands it has considerably increased in size. I think it is quite right I have taken some trouble to find out the matter. There is no trace whatever of any second bottle, but this bottle of the size of half a finger. Now I propose very shortly to follow this history of this bottle. The Commission will remember the observations I made without pretending to put in a direct proposition of any kind whatever on the doubt which permeated my mind whether his servants had any real intention of poisoning Colonel Phayre. I have dealt with Damodhur Punt and have handed him over to your mercies to deal with him as you please, whether he was the villain he pretends to be, whether he really meant to poison Colonel Phayre or not. I cannot bring my mind to say that his servants deliberately had such a design. I do not say they had not, but I cannot bring my mind to the fact they had. It is important in this to follow Rowjee's bottle. It gets into Rowjee's hands at a time which is doubtful. He says fifteen days before the 9th of November.

Mr. Branson No, a month before the first receipt of the arsenic.

Sergeant Ballantine I am told he received it very much earlier than I supposed. At any rate he gets it earlier than October. As I said before it becomes extremely larger after he has got it into his possession. He said it was to be put into Colonel Phayre's bath—given to him for that purpose. There was poison in it, he did not know what. From Damodhur Punt we have heard what it was compounded of and we have also heard the size. We have also heard what Rowjee did with it. He kept it in his drawers or some under clothing, and it produced a sort of boil on the stomach, and it then occurs to him that if he puts it in his bath it would injure the Sahib. Why, it was given to poison him according to their case it was intended to do it. But he was seized with a fit, whether it was remorse or not I don't know, but it was not defined, and it is difficult to understand. But as soon as it produced a boil upon his own stomach he determined not to use it and threw the contents away. I believe I am correctly stating the facts. He, however, keeps the bottle, and the bottle is subsequently used, according to his own account, to mix up the arsenic, with which he was supposed to murder Colonel Phayre on the 9th of November. He is told to mix these things in a bottle, to shake them up, and to put them in the glass which contained the sherbet. Colonel Phayre was in the habit of drinking. The first observation I would make is, how could a quantity of arsenic or any other poison be shaken up in a bottle of such a description? It is not pretended that there was any other bottle. It is the only bottle that exists in this case. It is traced to Damodhur Punt, and it is a bottle into which he had put some liquid from a large bottle about the size of half his finger. It is patent that nobody has not seen this discrepancy but, of course, if the whole story is a fabrication, he knew Damodhur Punt had mentioned a bottle as having been given to him, and, of course, without bothering about the character of the bottle, he adopted the story. Well, I do not know how it is to be reconciled in this case, in which there is this extremely grave charge. I have followed with care the evidence, and it is perfectly clear that there is no second bottle introduced on the scene. There is no second bottle, and it was impossible that this one could be used for the purpose stated. It is nonsense. The arsenic would not go into it, the water would not go into it. The whole thing is an absolute piece of absurdity from beginning to end. The truth

is that as the story they have not got together the links, they have not sufficiently considered it, the actors have not well considered their parts. These are their assertions, and this is the case on the part of the prosecution. If this breaks down there is another link absolutely gone. There is an instance which must be really a fabrication. They are parts which do not agree, do not meet. I will ask my friend d as he means to say, there were two bottles? Then what became of the star bo tie? Does he mean to say that Rowjee got another? Then what becomes of Rowjee's statement? He says he got the bottle from Damodhar Punt. You have, therefore, an absolute contradiction given by these two witnesses, the one to the other. Then I have to submit to your Lordship's consideration what is the view they take of Rowjee's evidence about not using this bottle, which, it is said, was handed to him for the purpose of affecting Colonel Phayre's health. Do they accept his assertion that he knew it would hurt the Sibh in consequence of the injury it had done to himself? If they accept that as his explanation did he intend to commit a murder at all? Is it not within my province to observe that whilst it is quite possible that Damodhar Punt may have intended to murder Colonel Phayre, his servants may have intended nothing of the kind. I do not affirm that. I am not called upon to do so. But, though they be themselves villains of a deep dye, they may be not so deep as they themselves would have us believe. Rowjee having a bottle to poison Colonel Phayre, finding it would do that which he was employed to do throws away the liquid, saying it caused this boil upon his stomach. Well, it was desirable on the part of the prosecution that this story should be confirmed. I will, therefore call attention to the time Rowjee received this bottle. He says he received it (and this is a remark by which we can thoroughly know it) when Colonel Phayre had a boil. That is to say, some very considerable time before he received the first poison. He received it a month before he received his poison. He vouches for that, and I call your attention to an important contradiction. He vouches that Nursoo was present at the time that he received the bottle. Nursoo corroborates him as to the receipt of the bottle, but fixes it at the early part of November, at the very last interview with the Maharajah, only three or four days before the alleged poisoning took place. It must not be lost sight of that in the deposition before Mr Souter, Rowjee never mentioned the bottle at all. A bottle has only been mentioned since Damodhar Punt has made a statement upon the subject of the bottle. I do not think I am incorrect in the result I have given. If so, I am quite sure I shall be told so by my friends and your Lordship.

Sir Richard Meade Did he get the bottle before he got the powder?

Mr Branson A month before

The President That is what Rowjee said, but according to my recollection, there was a discrepancy between him and Nursoo.

Sergeant Ballantine Yes there was this. He says he got it a month before the time of the poisoning, but Nursoo vouches that he received it a day or two before the time of the poisoning.

The President I noticed it at the time, but was not the bottle mentioned before Mr Souter?

Sergeant Ballantine Never mentioned.

The Advocate-General Yes, it was.

Sergeant Ballantine He said the way in which he administered the poison was to pour it into a bottle and shake it up, but he never says anything about the bottle being given to him full of poison or that he ever got it in the way now suggested, or that he got it from Damodhar Punt. He says, "I used a bottle," but never a word about getting it from Damodhar Punt for the use of poison. And if you take Damodhar Punt's evidence, one which could not be used so. Rowjee's was a bottle obtained from the

Manarajah under circumstances to which I shall hereafter have to call attention. What I want simply to impress on you now, and I do not want to carry it further, in the first place, the bottle described by Damodhar Punt as having been given to Rowjee was one which Rowjee could not have used for the purpose, secondly, that Rowjee never mentioned receiving the bottle before he was examined by this Commission, and thirdly, he describes in a perfectly different way the bottle which Damodhar Punt says was given to him. And so upon the subject of the bottle you have a series of inconsistencies, improbabilities and contradictions. Then comes the further extraordinary story in connection with this remarkable bottle. I cannot help thinking that the bottle held in it what we are told it contained—those magic elixirs described by Damodhar Punt. Because it appears to me utterly incredible, notwithstanding medical opinion that something hid exude from it, it appears to me, strange I say it with very great doubt and hesitation, how very little or none exuding from a bottle, should produce it upon the stomach. If a person manipulated it and did so constantly I can understand it, but that mere accidental exuding of a small drop should do so I confess passes altogether my comprehension. It is clear that they did not dispute the identity of the bottle, because in answer to a question put by one of the Commissioners it was very accurately described, in agreement with the description given by Rowjee who put it in an extraordinary place. This excellent news towards the Subid developed also with the intention of producing in effect upon his stomach. And one could not help smiling, if my learned friend's language desire on the subject when he called upon Dr Gray to, through the process of examination. And this gentleman did so and looking very grave came back with a scientific opinion. Whether in his judgment such appearances might be produced is known to us, though we had no opportunity of judging what they were. But he tells us there were the little marks, one above the other, indicative of something or other having been done at some former period. Listing to all the evidence the best first, the probability of escape, the chances that there might be poison in it, how on earth he could say it accounted for the marks passes my comprehension. It reminds me too I do not know of a very eminent man in our profession, well remembered by your Lordship the greatest advocate I have ever known, the best lawyer I have ever known, was educated in the idea that a person might be poison'd by an apple because it had an apple pip in it. He was called an apple pipper ever after that I think when Dr. Gray said he was recalled he will always be associated with the boil on the stomach of the Hindoo. I confess that the way in which science is prostituted by such a piece of absurdity, rather shocked me. There was a solemnity about Dr. Gray which led me to believe in him. I said to myself, here is a witness whose evidence is irreconcileable. But when he came to the boil on the belly, I thought of an apple pip and there was an end to my belief, and there is an end to the bottle. It is something too absurd—the mass of improbabilities through which this bottle has travelled the flux the serpents and the other by no means terrible liquid which it is suggested formed a portion of this extraordinary mixture and about which, by the way, no questions were put to Dr. Gray as to whether there was anything in its nature diabolical or calculated to produce boils upon the human stomach. If this were an ordinary case one would be inclined to pass it over with a mere smile, but when the man who is the principal promoter of this stupid absurdity and ridiculous folly is a man upon whose evidence mainly a prince has been practically deposed, there is therein which makes that which I believe would otherwise become the laughing stock of everybody, a matter of deep gravity and worthy of the contemplation of all. I cannot help thinking that before a

man was allowed to do this evidence should have been advised before some honest man, and not by men who were determined to hunt down a man in the way they have done. I passed away from the bottle. I bid it farewell. It is paltry and ridiculous, but it is painful being part of a history like this.

Sirajout Souter continued — I now go to another passage in which Bowjee is also an actor. I mean the powders, and I shall be corrected by my friends and by your Lordships if I make any mistake, as I now speak entirely from memory. These powders are supposed to have emanated from a source which never met them forth. Damodhar Punt is supposed to have handed them to Salim and Yeshwantrao, and they subsequently suppose I to have been delivered them in the presence of the Gurukar and for some half dozen other persons, most of whom were entire laymen in the case if we give into the hands of Bowjee. And I think for the purpose of thoroughly elucidating the matter it will be well to first to the account Bowjee gives of the matter when he was examined for the first time when he was examined before Mr Souter, and this is the evidence taken up for Mr Souter —

"Sirajout Yeshwantrao now truly begin to perceive us by saying that if we would only carry out the Maharsah's wishes we should not be required to serve my lord, as he would make abundant compensation to us and our families, that we should have assistance to stow upon us in short I might receive a lakh of rupees each as soon as the work was done — running is soon as the king at death took place. We consented to do the job, and the Maharsah then said that the nitrate to be administered would be given to us by Yeshwantrao and Salim. A few days after this the king first gave me two powders and told me that each powder of which should be administered for two or three days, and the quantity is to consume the whole in that time. This he also then fully explained to me by Yeshwantrao and Salim in the presence of the Maharsah. I did not commence to administer the powder for two or three days as no favourable opportunity presented itself for so doing. It was decided at one consultation with the Maharsah that the poison should be administered in sherbet which Colonel Phayre was in the habit of taking every morning on return from his walk. Will you kindly give your attention to that? — Accordinglly I put the powder in the sherbet two or three times, whenever I found no person in the room or about to come. And then in another part he goes on to say 'The packet of poison which Damodhar Punt first gave to me, I mixed into small doses as directed and kept the powders in the secret pocket of my cross belt. The powder taken from one of the secret pockets of my cross belt this morning is one of the powders mixed up from the packet I received from the pender. This is the account to Mr Souter what is the account he has given us? His account is not that he used the powders as directed, not that he made them into three packets, not that one of the three packets was the packet found in his belt, but what he says is, 'When I found the two powders of different colours, my own notion was that the white powder was the more dangerous, and I therefore only put a small portion of the white powder into each of

three packets which I made up, and I put the remainder, consisting all of white powder into my belt. That is the story he has told before this Commission. Now which of these is true? They are in direct opposition. The two cannot by any human possibility be true. Well, but what does he say now was his reason? His suspicion was that the white powder was more deadly than the grey. Why, what did he know? He knew nothing at all about it until as far as I understand the evidence they were mixed up when he got them. They were not two powders consisting one of red and one of grey. They were two powders already mixed up, that is how he got them. That is the way it is stated by Damodhar Punt and that is the way he represents it to Mr Souter that he got them already mixed up, and that he used them as directed dividing them into three parts, that by an accident, the third part which he had entirely forgotten but which was a compound of the whole and contained the elements of the whole, remained in his belt. I find I am wrong in supposing that the powders were mixed up at all when he got them. He says "I did mix them up in fact." That is his statement when examined by Mr Souter. If mixed up as directed they will mix up altogether. His statement now is, I start on which I divided into three parts, I put into each of these three parts a pinch of the other powder, and then the balance of that powder I put into my girdle. Are the two things inconsistent? Then we get into another question when dealing with this. Why should not he have administered them as directed? What was his motive in keeping back the one powder? As I gather from his evidence, he thinks the white one was more dangerous than the others. Why did he know about it? If the suggestion is true that damodhar is considered poisonous and destructive, why should he imagine that one of the powders is not dangerous than the other? But then he states he was using the powder to poison Colonel Phayre. Why, then should he keep back that which he thought was dangerous and not keep back that which was less so? The whole thing is a number of improbabilities and only reconcilable by the subsequent events of the belt containing a particle of arsenic. If his story were before Mr Souter was true, the belt would have contained two powders and not merely arsenic, and therefore the arsenic contained in the belt required some explanation. I venture to think that taking his two stories together, you have again a congeries of improbabilities out of which it is very difficult indeed to see anything like daylight. I do not know how this matter can be explained. But then there is no doubt this arsenic in the belt was extremely useful for other purposes. It is an element that we have had followed out, and we have had a discussion on it to which I also want to call your attention. I dare say it did not escape your attention. I will call attention to the evidence before Mr Souter in which it was stated that when the policeman Gujanand found these damaged pipes at Damodhar Punt's, directly he found one he called Mr Souter, but he did not call him before and Mr Souter was not present at the finding, in fact, I think it will be discovered

that Mr. Souter never is present at any of these findings. The belt we will follow and see what occurred. Rowjee is taken into custody, and I believe Akbar Ali is the informant upon this occasion. Probably there may be something in the belt. It occurs to me that as you carried all this poison in your belt, I may find some residue, just some trace that may help us to a conclusion. Rowjee might, we are all aware, if the evidence is worth a farthing—every one was rushing after him to see that he destroyed all the poisons. There was a universal rush after him to get him to destroy all the poisons, but Rowjee's mind was in a haze on the subject, and the poison in the belt had entirely escaped his recollection. But Akbar Ali's intelligence overcomes many difficulties. It occurs to him that is the liquid from the bottle exuded and caused a boil, in the same way some of the powders from the paper might exude and cause a mark on the belt. What d'you keep the powder? he asks Rowjee, indeed not itself, has no collection of the subject. A man who has been engaged in a poisoning transaction and knowing there is a quantity of poison in his belt, is supposed to have forgotten all about it. It would be very convenient if murder is not always as forgetful few murderers would escape if they were. But if he had forgotten he was abundantly reminded of it. According to Dr. S. Ward there was an unusual gallop to tell him all about it. Silmi was rushing over to him "Lord God, sake if you have my powder show it." In point of fact everyone was anxious should do it but at the same time notwithstanding all this anxiety in consequence of the difficulty of the memorov of how the powder remained in his belt. Akbar Ali says to Mr. Souter that he won't nor will it if some powder were left in the belt, and Mr. Souter says, "You had better look to the belt, and he has such confidence in Akbar that he permits him to do just to fetch the belt. It occurs to me to ask, however, why did not Mr. Souter accompany Akbar? Akbar had made a most valuable suggestion. That belt ought to be put in a menagerie—I mean a museum—and Akbar Ali should be put in the menagerie. That belt is a wonderful belt. It will go down to posterity. When Akbar feels the parcels in the belt, as if his Providence had told him there was arsenic in it, he immediately sends for Mr. Souter, and Mr. Souter says, "God bless me, why this is arsenic!" I can not help thinking that here was a matter in which Mr. Souter deliberately hit a man whom he knew to be utterly unscrupulous to manage the belt, and relied upon something coming out of it, and sure enough something did come out of it. The discovery of this arsenic can only be considered providential—if it can be supposed for a moment that Providence has any thing whatever to do with Akbar Ali. I have shown that as far as Damodhar Punt is concerned he got no arsenic and no diamond dust. I have shown that Rowjee's account of the belt is absurd even to commonality, and I have shown that with regard to the bottle he never mentioned it until the bottle had been mentioned by Damodhar Punt, that with regard to the powder, he says he used them in one way and then swears he used them in a totally different way, and then produces a paper of pure arsenic which is found in the belt under improbable circum-

stances—all this is a story which rational beings would be compelled to look on with doubt, to use no stronger expression but when the story is told by such a man as Akbar Ali it carries falsehood upon it, and I charge before this Commission and before the world, that in that belt was placed by Akbar Ali the powder which was ultimately found, and directly that was done he called Mr. Souter a comparatively respectable person to vouch to the facts of its being found. I shall now conclude my observations to day by calling attention to the intrinsic evidence of Rowjee's falsehood. I doubt dly Pedro is a respectable witness upon his character no stain attaches, but he is Portuguese by birth, and I am told that it is extremely unlikely that any Hindoo would make an accomplice of a Portuguese. I beg to give his evidence which he could not be temptable before a gentleman named Linton, who I understand is high in character in my view in India. I hear says he received money upon a particular day but with regard to all the information imparted to him by Rowjee, Pedro places his solemn oath that Rowjee's statement is entirely and absolutely false. The Commission can I assure without any observation on my part whether they can find I do guilty of exposing poison with the view of poisoning a master with whom he had been a servant twenty five years without any earthly motive because so far as I can see no motive what ever is suggested for the killing of Ibro. I think I can point to other intrinsic evidence of the falsehood of Rowjee. The events which Pedro is said by Rowjee to have had with the Mahratta are singularly like both in spirit and in word to conversations which Rowjee reports to have had with the Mahratta himself. The inference is obvious. What other conclusion can you come to than that Rowjee's story is a base and weak fabrication? My friend Mr. Ellis calls my attention to an extremely material fact. Pedro's visit is made to be the or four days after his return from Govt which was on the 1st November so that the visit would be about the 6th or 7th the very period, as I shall subsequently show, that he has fixed as being the period of Rowjee's visit with Nursoo.

EIGHTEENTH DAY.

BARODA, MARCH 17

YESTERDAY, at eleven o'clock, the Commission resumed its sitting for the eighteenth day. Sir Lewis Pelly and His Highness Mahratta were present in the forenoon; all the commissioners were present except Sir Dinkar Rao.

Sir Nat Ballantine on the assembling of the Commission, continued his address on behalf of the Gaikwar H. Sul. I think it will be convenient that I should refer to a matter which is not without significance in this case, more or less, as it is weighed by the members of this Commission. I allude to the examination of the two principal witnesses in this case, Rowjee and Nursoo, before Colonel Phavre, when first there was an investigation into the attempt at poisoning. I do not think it is necessary that I should occupy any great portion of the time of the

Commission It is almost sufficient simply to refer to it as exemplifying the character of the proofs which have been adduced. Perhaps it does not make them more black than they made themselves, and the evidence has already made them. It is however a matter impossible to be passed by without observation in the discharge of the duty I have to perform. We find a number of servants at the Residency, persons whom we would suppose by their position to be comparatively respectable people as soon as a suspicion of an attempt to poison Colonel Phayre arises, we have them actually sitting down to work together to determine whom it is they should charge with the poisoning. By general consent they fix upon a man, whom the two men to whom I have already referred, if that violence is to be believed at all, knew to be perfectly innocent. They seem to do so without any sense of shame. It was simply convenient for them to find somebody, and they all combined according to his account they talk the matter over, and say I suspect Nuroo Rowjee and Nuroo so knowing it that there is any truth in their stories that they are making a deliberate charge against a fellow servant which they support by a number of details. When you find people coming forward and admitting that first of all they have attempted to commit a murder then directly an enquiry is made they are ready to charge themselves with the crime and that now they charge the Mahratta. It appears to me the whole case has in itself which does not commit it in any character in which there is a disposition to come to a conclusion on anything like a deliberate testimony. It might therefore seem I miss on my part if I did not call attention how I briefly touch the matters. Having made that reference and disposed of it shortly as I was entitled to I now come to the number of Rowjee's testimony. I have already referred to his evidence. I have disposed of the bottle and the bell and very few observations remain. I think however that I may fit it in ought to refer to the circumstances under which he made his statement. I shall refer to it very shortly for I have already made reference to the conduct of the police in general to us. It appears that the same plan I adopt in regard to the other witness was adopted towards Rowjee. He was taken into custody on the 22nd and the same evening he confessed he had administered poison to Colonel Phayre. He is promised it appears pardon if he will confess all. However it is only after an interview with Akbar Ali that he is induced to take a bill for Sir Lewis Pilly and Mr Souter. It is not till then he has been manipulated by the police Akbar Ali and the others in the absence of Mr Souter, to which I wish to call attention, that he does so. In the course of this calling these three persons—Akbar Ali, Bhaloo Ali and Gujanund—all the persons who manipulated the witness, and accomplices previous to the examination before Mr Souter. Now I wish to make an observation. One is always unwilling to make observations unfair or unjust but I cannot hold Mr Souter responsible in these matters. He knew the character of Gujanund he knew the imputations which were resting upon him he must have known he was banding these men over to me absolutely unscrupulous. I cannot help thinking what I have already expressed and that

he ought in the first place to have taken it down before they were under the threats and torture which they appear to have been upon every occasion. I refer now to one or two statements in Rowjee's statement before Colonel Phayre. I do not after all think that if what I have already said has not destroyed this evidence that anything more I can say will do so. I have spoken of the bottle story and the bell story, and after what I have said on these matters the Commission is not convinced of the nature of this evidence it would be perfectly idle on my part to deal with any smaller matter. Now however as I have said is taken into custody on the 22nd. The next day his examination is taken on the 23rd. Another is taken on the 24th, another is taken on the 25th. He is then taken before Sir Lewis Pilly where the promise of pardon is confirmed and there is a remarkable thing I will take the liberty of directing your attention to which I think is pertinent. It is exceedingly strange that though Damodhar Pant is supposed to be the instigator and however the consummator of the crime yet that Nuroo who is a very subordinate and inferior actor should be the only person to whom the hopes of pardon are not held out. Not only is no hope of pardon held out but he is positively assured that there shall be no pardon for him. It is an extraordinary thing to find the perpetrator of the crime paroled and the originator of the crime paroled and a mere subordinate as at the only person to whom a parole is refused. I should have thought he was the only one to whom a parole would be extended. Of course I can not tell what course of reasoning Sir Lewis Pilly went through in granting these amnesties but considering that Nuroo tumbled into a well and only vowed that his master would count it him with murder should be sent in to share whilst the other three partie were actually accomplices I cannot think that he intended to mind; and I hardly think that he has been fairly dealt with. I must confess that I do not think he will be excluded from that reward which is due to the extent of the other. To come to Rowjee's first interview with the Mahratta which was in August 1857. It is difficult to say whether this interview took place in consequence of certain proposals of Salim. I rather want to dwell upon this. At this time it is not suggested that these interviews were connected with my matter of poisoning. What is suggested is that Salim wanted to get some of the Residency servants for the purpose of getting information of what was going on at the Residency and it appears that he got some information if we are to believe however, of what was going on during the Baroda Commission and after that Commission. It seems that at about that time however was taking to himself a wife and asking for a present. A small amount of money was given in consequence of that but throughout the whole of this time, from the beginning to the end it is not shown that this was with any other intention than that of giving information. It was a small sum. There has been an attempt made by calling a jeweller to show that he had a large amount of money. This witness produced a quantity of trash which after all it turns out were bought for Rowjee's marriage. I shall of course have to say a word or two on this endeavouring to get

information as to what was going on at the Residency, but I stop here to remind the Commission that this payment of money is the only one which is really marked. There are small sums said to be given to the ayah, and it becomes a feature of considerable prominence that no money was applied for when it is remembered that Nursoo and Rowjee had abundant opportunity of applying to the Maharajah for money for what they are alleged to have done. The fact is, however, that no communication was made, no application was made having reference to any money, and this is a very important and peculiar feature in the case, which one does not often find in matters of this kind. There is another matter. The history of Rascaldom—and that is a term peculiarly applicable to the combination of witnesses introduced into this case—goes to show that persons engaged in a plot generally keep some sort of evidence to show afterwards, if necessary who is the instigator of the crime. In this case there is the bottle, there is the poison, there is the powder. It is strange that something of the kind was not kept back, and some endeavour to preserve some evidence was not adopted. It seems to me that so far as the Maharajah was concerned an entire and complete falsehood has been arrayed against him. I see it is Rs 500 that Bowjee is said to have received from Yeshwantrao. I call attention to this fact. It is said that Jugga went to the palace. Jugga has been introduced by my learned friend to confirm the evidence about the poisoning. But it was not until after that date that Jugga went to the palace. Therefore any confirmation supposed to be given by Jugga on this point falls to the ground. There is another person Kharbhai, also introduced by Rowjee or Nursoo or both. I forget which just now, as having accompanied them to the palace but as far as I remember, Kharbhai or Jugga only went on one occasion and that was much earlier than this occasion when it was suggested any attempt at poisoning was made. On reference to the short-hand writers notes, page 97, it will be found that it was in the last hot season Kharbhai went with them. That I presume applies to May, June or July, and not to the later months of October and November. Indeed, the purpose for which he was introduced is to confirm evidence of fifteen or twenty days before the alleged attempt at poisoning. Therefore these two persons who are both persons called to vouch for the evidence of Rowjee and Nursoo entirely fail, and there is therefore no evidence at all from any unpolluted source confirmatory of this evidence. I have to submit that a fair inference from all the evidence unconnected with the evidence of Rowjee and Nursoo is that there may have been visits and interviews during the time of the Commission during the time the visits were going on and down to the time of the alleged poisoning, that certain sums of money, such as Rs 500 to Rowjee were paid but that from that period no single farthing is alleged to have been given or traced to these men and so that if it is supposed they received Rs 500 for giving information, yet for the transactions connected with the poisoning, in which they were risking their necks, they never appeared to have asked for, or, as a matter of fact, to have received one single

farthing out of the Maharajah's pocket. It is said, and it may be true I am in no condition to dispute it, that Nursoo says he received another sum of Rs 800, which he received in consequence of the marriage of the Maharajah. This is a matter not in any way connected with the poison. It is not suggested to have been given for that, and it was not given at the time. These are considerations which have doubtless already occurred to the Bench, and it is, therefore, unnecessary to comment upon them. Men generally expect a reward for what they do, and the reward is generally expected to be commensurate with the service they perform. But in this case there is no evidence of any such reward. Upon these occasions when they are supposed to have implicated themselves in an endeavour to murder the Resident they do not allege they received anything at all. And the only suggestion which has been made and which I do not think you will believe, is that each was to have a lakh of rupees in the event of success a sort of promise which a native of this country, unless he be peculiarly simple minded would hardly be expected to accept instead of hard cash. With regard to Nursoo, from the beginning to the end of the transaction, there is no proof that he ever had much to do with this crime although he showed such repentance afterwards. Again, the account given by Rowjee of Damodhur Punt is one considering that he was deeply implicated in the attempt at murder which to say the least is strange. He says "I know a man named Damodhur Punt but not personally. I know him by sight." That is the account he gives. You know what Damodhur Punt says. He says "Rowjee came to my place. He had stolen some books belonging to the Residency and he remained there while I copied them. These discrepancies show at least, that three minds were at work in this matter. There has been Gujanund working at one, there has been Akbar Ali working at another, and there has been Abdool Ali working at a third. Of course they have had a general notion of the main features of the case but as to the details of course they could not foresee them. I think this accounts for the inconsistencies of the whole story. It may be stated by my learned friend that variances are a proof of truth. Small variances are or rather may be proof that there has been no previous arrangement between the parties. That, however, applies only to small variances and I think that the principle is often carried too far. But when they differ on all matters from beginning to end, my friend will hardly submit the argument or the Court entertain it. I do not think it would be right to repeat the arguments which I have already addressed to the Commission on the subject of Pedro. I have already commented so abundantly upon this subject that I need take up no more time of the Commission by making further observations upon it. What Rowjee says about the packet is that it contained two powders, one white and the other rose coloured. He then says, "I divided them into three. The fourth part I put into my belt, and I put the other powders on alternate days into the tumbler. I shall have to refer to Colonel Phayre's evidence. He suffered from confusion of the head and incapacity of understanding matters which astonished him very much. Intending to refer all this to the powders, but unfor-

tunately for that theory all these powders were administered after he was well. Therefore it will be difficult to see how, except in the mind of Colonel Phayre, he was already suffering from the effects of these powders. If we are to depend upon the evidence at all it was fifteen days before the 9th which he says was the time when he first felt the symptoms. But he was suffering from a boil, and that was some time in September. It is very curious to see the way in which there is an endeavour—I will not say a dishonest endeavour—in a mind not over strong to adapt his mind to circumstances he thinks took place. It is quite obvious he means to imply he was undergoing a process of slow poisoning long before the time that it is suggested that anything was done to him. Well there is the question of the bottle. Perhaps he may have attributed his symptoms to the bottle which had been obtained. There is however, a difficulty about that as Rowjee never used the bottle at all so that neither the suffering he had when he took off the blister, nor that confusion of brains from which he suffered could be applicable to the bottle any more than to the powder. You know it is said that Nursoo asked about the bottle and whether he had "put it in" and Rowjee told Nursoo he had. I have already ready put the history of the bottle before you so that I need not refer to it any more. Now to an other point I wish to call the attention of their Highnesses to a small matter which I should think important if I were addressing a jury in England. It is said that about November 5th when Nursoo went to the palace, he was vilely received by the Maharajah who gave him some very coarse abuse. And I should desire that that expression should be given to their Highnesses, and I should submit to their knowledge of persons in the position of the Maharajah whether that was an expression ever likely to have come out of his lips. I do not know whether the expression is known to their Highnesses. I am told it is one of extreme filthiness. I abstained from asking for the actual words, because my learned friend hinted to me its nature, but I would ask that the actual expression be given to their hands.

The Advocate General "The expression was given in the vernacular in the evidence."

Sergeant Ballantine "That is sufficient for my purpose. I am quite sure the appeal I have made will be attended to so far as I have any right to expect that it should be. Now there is another I have already alluded to, but which I must venture to allude to again. Rowjee says Nursoo gave me some dark or black coloured substance and it is a dark or black coloured substance which is supposed to have been put into Colonel Phayre's glass. I think that is a question to which I need not further call the attention of the Commission in Rowjee's evidence having dealt with that evidence upon the particular points of it illustrating the whole. There is, however, I think this very remarkable fact. I do not know whether it has occurred to the Commission that every transaction emanating from Damodhur Punt goes through either Salim or Yeshwantrao. The next person brought upon the scene is invariably Nursoo, whom quite unnecessarily the packets are from time to time sup-

posed to have been introduced into the poisoning tale. Then from Nursoo the poison is handed to Rowjee. Then the poison was used or was not used according as his evidence is to be taken. So that you have this clearly and distinctly before the Commission that by the admission of Damodhur Punt he concerta a murder, that he then employs as evidence Salim and Yeshwantrao, probably the persons implicated with him in the frauds upon his master. They never bring the Maha rajah into the matter at all not connecting him except by bare assertion with the matter at all. Supposing this was a case against Damodhur Punt there would be such an amount of conclusive evidence as had never been made out in the world. That the murder emanated from him and was carried out by Rowjee. That I cannot help thinking and I have put it before you and I now propose to put it in a clearer light than I have yet put it. But any such propositions which I may make I am quite sure the Commission will not think that if they are not practicable, the case against the Maharajah is made out. If I see that is that it is my mind to think that there is a solution of a difficult try, and lay what appears to be reasonable to my mind before the Commission, it is not for them to say if the solution seems an impossibility, that the defence has broken down. I can put understand this state of things. I can understand that Damodhur Punt excluded from the Residency the stencl with inquiry a man who has been embezzling his master's property, as undoubtedly he has if you accept the argument I offer to you and in all human probability other servants, Yeshwantrao and Salim his accomplices in these matters are considering the prospect that Damodhur Punt may have really intended to murder the Resident. I do not think it is impossible that Damodhur Punt may have really intended to murder the Resident. I have shown I think conclusively that it was not in any respect whatever for the Maharajah's benefit to murder the Resident. I have given in all events sufficient grounds for supposing that Damodhur Punt may have had a motive of that kind and for ought I know, intended to carry that motive out. But when we come to the servants of the Residency it is extremely difficult to see what motive on earth they could have to destroy their master. They lose a master, but when in all events they have no complaint. They lose Nursoo especially, a man who has been so long in the Residency they lose their position and everything else if Colonel Phayre is removed. There are other men cleverer and more cunning who have completely taken in Colonel Phayre, and have been allowed to govern his mind and rule his life. Once men like Bhow Poosakur and men of that description who know all that was going on, and who were perfectly well aware of the khureeta existing, and who must have known that Colonel Phayre was in considerable peril of being dismissed and as it occurs to me where the question is one of motive, it was one much more of motive for the servants of Colonel Phayre to keep him in the Residency than to take away his life. Now where every particle of a story is monstrous and improbable I do not think it is a very false conclusion to arrive at that it may easily have occurred to Bhow Poosakur that if there is an attempt of an attempt upon the Resident's life that will put an end to the pro-

bility of his being removed. The lesser thing will merge in the greater one, and the confusion and enquiry that will arise in consequence of such an attempt will in all human probability protect the Resident from removal. Now, I should not venture to put forward such a proposition except for the evidence that has been given by Rowjee in this matter. If Rowjee is to be believed at all, and if the bottle has any existence, then directly he gets that which is at all formidable to the life of the Resident, he throws it away directly he gets the powders, if his story is correct, he takes out all that is at all dangerous, and only leaves that which is undoubtedly perfectly harmless. At all events if he used these powders, it is perfectly clear no evil whatever arose to the Resident from the use of it. But then comes the last powder, the dark brown powder and just let us follow that, for it is certainly one of the odder features in the whole of this case. Dark or black Rowjee calls them. A dark powder Colonel Phayre calls it. I cannot account for its being called a dark powder says Dr Seward, for the powder I took away was a light one, and you therefore have to account for this. A dark sediment, and a light powder going to be analysed. It is not accounted for, it is not explained in any way whatever. Neither Colonel Phayre nor Dr Seward can explain it. There is another matter also connected with that which strongly confirms the notion that this was not a reality. If arsenic was being used it was perfectly colourless. It is clear that this powder upon which the supposed discovery was made contained something or another which must directly attracted the attention of Colonel Phayre. A strong metallic taste, or as he said himself a strong coppery taste. There is no solution whatever suggested either by the analysis or by the evidence of how anything whatever could have got into that sherbet with a metallic taste. It stands entirely unexplained. Well, it will be said by my learned friend how do you account for arsenic being found by Dr Gray and Dr Seward. I really do not pretend to be able to explain it, but if it was intended, I undertake to say there would not have been the smallest difficulty in doing it. It is not to be supposed that Colonel Phayre and Dr Seward had their attention so much on the matter that it could not have taken place. It is idle to say so. You may say that it is improbable, but what is there that is not improbable in this case? Here is something of a solution. Standing among a mass of improbabilities, it is more improbable than any of the other matters that have been brought before you. You will remember this, that associated with this matter there is the statement, which must have meant a great deal at the time of Colonel Phayre, that he received a private or confidential communication that the ingredients in his glass were arsenic, copper and diamond dust. I shall refer presently to his evidence upon that point. I think it is only right I should do so, in fairness to His Highness the Maharajah. This private or confidential communication which Bhaw Poonekur, from whom at last it turned out it came in brought forward, but he throws it a step back. Bulwantrao, I think, is the person who he says gave

him the information. My learned friend did not think it necessary to convey the matter further, by calling Bulwantrao. That is the information that copper has been used, and Colonel Phayre states that there was a coppery taste remaining in his mouth. How is that consistent with nothing being found but diamond dust and arsenic. And if my learned friend endeavours to show that any other ingredient has been used by those whom he charges with being accomplices in this crime, then he must knock down the whole superstructure which has been raised which makes out that the poison was diamond dust and arsenic alone. I have already said that neither of these ingredients produces any taste whatever, and I venture to ask again how is this story reconcilable, how are you to get rid of the dark residuum? Black according to Nursoo dark according to Colonel Phayre. Dr Seward did not get it, and Dr Gray did not get it they got a grey powder. They got what might have been arsenic or diamond dust if such a thing exists. How it is to be got rid of, and how the whole matter is to be reconciled entirely passes my comprehension. The only possible way is that Nursoo mistook dark for light, and that Colonel Phayre mistook dark for light and that in talking of dark powders they meant white powders, and in reality the error has been in calling that dark which could only be described as light. In propounding that this was possibly an intention of the servants to play this kind of trick, but not to poison their employer, it must be distinctly understood that I do not propound it as a proposition on which I stand. I put it forward as being one of those matters which upon the only facts supplied in this case may be fairly put forward, and I assert it is quite probable as any of the other facts propounded, and is in point of fact supported by circumstances that are not nearly so inconsistent in themselves as those of the suggestion, that an actual intention to poison existed in the minds of these people, who took care that it should be known that poison was to be in the liquid and took care to circulate in all the basins that poison was intended. These are the observations I venture to make on the evil use of Rowjee in connection with the evidence of Doodhbari, and they are observations in which I pledge myself to no proposition whatever. I do not think it is necessary I should occupy your attention by many observations upon the subject of Nursoo. With reference to him he appears to have been arrested on the 23rd December. He is confronted with Rowjee on the 21st in the presence of Gujranud and Akbar and Abdool Ali. Mr Souter at that time not present. The sum system is pursued as with the other witnesses, and Gujranud himself admits and you will find this stated at some length, that he was questioning him. This is what Gujranud himself says on the subject, 'I was sitting with Nursoo on the mudan on the open space in front of the Residency, and I was questioning Rowjee about the particulars of this case. I was sitting with him, and the Khan Sahib was also present, that is Akbar Ali and Abdool Ali was also present. I had given instructions to Rowjee, I said, "You should not say anything further than this, that you have stated everything connected with the case. This was what I said to Rowjee, and this was what Rowjee said when he came there, and he ad-

ded, I have said up to this (pointing up to his neck). He did not say anything more than that I did not tell to Nursoo any particulars that Rowjee had stated. It was in order that Nursoo might not know the particulars that Rowjee was cautioned in the manner I have mentioned. I cannot make any minute observations on this evidence. If it does not strike those whom I have the honour of addressing as being a fabulous account, I do not think anything I could say would have much effect on the view you take. Gujanund particularly desires that Rowjee should know nothing that has fallen from Nursoo. Gujanund may have been governed with a desire that justice only should be done, but it is certainly inconsistent with the rest of his conduct, and if Gujanund intended to be so fair, his object was woefully defeated by what took place afterwards, because he then seems to have made a statement, and was taken before Mr Souter and Sir Lewis Pelly, and he is informed that no pardon can under any circumstances whatever be granted to him. I think he is hardly treated with fairness, considering that he is the least criminal of the witnesses concerned. He then made an oral confession, and on this point, Mr Souter says, "I did not take it down as I had a great deal of work to do. Now, I beg your attention to that it occurs to me, and I think it will occur to you, that if he did make an oral confession at that time, whether the oral confession was in keeping or was not in keeping his duty to the public was to have taken it down there, and then He made a statement which may have been correct or incorrect. It was a confession of murder or attempted murder, and why was it not taken down there? "I had not time to do it," says Mr Souter; "I had many other matters connected with this enquiry." What matter could there be connected with this enquiry that could be more important than taking the confession of an accomplice? Mr Souter cannot answer that question but then we have Sir Lewis Pelly afterwards, and he entirely differs as to what took place. It was not according to Sir Lewis Pelly, because Mr Souter had not time to take it down, but he says "Mr Souter was about to take it down, but I said 'do not take it down now, let him have time to consider it'". And, accordingly, he remains under the care of the police, and it is not two or three days after that he makes a statement that is reduced into writing. I must say that the whole of that transaction is certainly suggestive. I do not say of opportunity intentionally given, but of an opportunity having in point of fact being given, for a man whose statement might not have been entirely in accord if it were denied it certainly give him a full opportunity of correcting that statement. This occurred before Sir Lewis Pelly on the 23rd and the deposition was taken on the 26th. We have then the garden scene the well incident, and I have already referred to it the question there being, whether it was the effect of consequence of the effects of a dinner, he could not be prevailed upon to say it was done on purpose, and it is certainly extraordinary, considering the opening of my learned friend, the whole of this transaction. I wonder who it was that first told this story about the well. Whoever it was they palpably told a deliberate falsehood but they surrounded it with circumstances that could be proved up to the

hilt. They say he was under a guard of the police, and broke away from his guards, and therefore there must have been more than one present. Not that he was standing at the edge of a well, and tumbled in, but in the presence of numbers broke away from his guards and threw himself in. In it may be said that when he comes here he says that which is untrue and the notion of tampering that is given by one of the witnesses being this, handing a man over to a number of soldiers, and only letting the police have access to him. This is the account given by Mr. Souter of preventing a man being tampered with, but where are the men from whom he broke away, or were they only found in the imagination of those who instructed my learned friend, and from an accidental falling into a well, created the romance of a man overcome by conscience breaking away from his guard and throwing himself into a well, seeking that fate which he feels he so fully deserves. I should think that the explanation that would have been most satisfactory to this tribunal would have been the evidence of some of the witnesses to show on what grounds that assertion has been put forward. I do not propose to refer to cross examination, it will be in the recollection of the Bench—the fate that overwhelmed him the predilection that made him attempt this murder for which he was to get nothing at all. Having dealt with all the facts of the case at an early part of my address, I do not propose to offer anything further now nor am I aware that there are any further points in connection with Nursoo that require explanation. Their case is this without a motive, without inducement, without anger, without revenge, with a good master with good wages, with every thing surrounding them to make them comfortable, with every hope of a continuance of a comfortable and thoroughly respectable life without a single word of objection, without any remonstrance, without anything in the way of argument, without anything in the way of protest, directly the proposal was made to murder their master, they fall into it with as much readiness as if it were a proposition of any ordinary kind. They go through processes the most cruel, if they are to be believed, deliberately poisoning the cup their master was drinking from, and daily expecting a death from which nothing could be expected but evil to themselves—a death which, if it had taken place, would have left them in the position of those to be charged with the crime without the possibility of recoupling upon others the charge made against themselves. I have dealt, I believe, with every material detail connected with this witness, and I have dealt at great length with the matters connected with Dumodhur Punt. You have to make a system whole, and not only that, but to see that that which you make out of the evidence is founded upon evidence on which it would be possible for you to place the slightest reliance. You have first of all to come to the conclusion that you are certain an attempted murder took place. You may come to the conclusion that no men could be so vile as to charge themselves in the witness box with having attempted a murder that they never intended. I have no desire to check that conclusion, but I say that as against the Maharajah you have nothing but a mass

of gross improbability put forward by people who must be admitted to be the most infamous of their kind, brought forward by police officers who have beyond all question urged them to come forward by motives of the strangest kind. If they succeed in making you believe that the person they charge is guilty, having before them the prospect not only of pardon but liberty, the chance of advancement, which the knowledge prominent in their minds, that unless they succeed in making you believe that the man I call that ill used prince has been guilty of this foul attempt at murder, if they fail in making those who are countrymen of his own, and those who bring bright judgments, high intellect, and honest feelings into this case, they then go back with a halter round their necks, with the knowledge on every one's minds that they have in point of fact committed foul and filthy perjury. I thought it was well to get rid of these witnesses before turning my remarks to Colonel Phayre. In dealing with him, I at all events have a pleasanter subject to deal with, and one in which, although my observations will not be altogether laudatory, I do not desire, and I hope I shall not be obliged to make any observations of great severity. But inasmuch as in this case an implication is raised that one of the witnesses who has been called, and the bulk of whose evidence is favourable to the case I represent, and as reflections have been cast upon him, I think it is not unnatural that I should call attention to some of the answers of Colonel Phayre, and show that a man under the excitement of cross-examination, is likely at all events to avoid telling what is strictly the truth, at all events except after a great deal of pressure. He mentions that Yeshwantrao and Salim were in the habit of coming with the Gaekwar to the Residency. Further on it looks as if Colonel Phayre alleged that something had been done to the plaster, and you will remember that in the evidence of Damodhur Punt he attributes a statement to Salim that Rowjee had said he had put arsenic into the plaster. It is quite clear that what Colonel Phayre imagined in reflecting upon the thing was that there had been arsenic put upon the plaster, and his head was suffering in consequence. I have already referred to the fact that this is altogether repudiated, and that no arsenic was used in this way. He then comes to the period approaching the time when the poisoning is said to have taken place. It is quite clear he implies that there was some taste in the sherbet which induced him to throw it away. He then refers to his symptoms, which he says were similar to those he had "previously experienced," that is, such as he had experienced in September, so that he clearly means to imply that the poisoning was attempted in September. He then describes the same symptoms occurring, only rather worse, on the 17th, therefore you find he was attempted to be poisoned on the 6th and the 7th. Now it turns that there was no attempt to do anything either on the 6th or 7th. There is not a scintilla of evidence to show that either on the 6th or 7th any poison was applied. Well, it only shows what imagination may do with a man. His ideas and his symptoms on these days may have been perfectly correct, but if they were they arose from an entirely different cause. Then after having drunk the pummelo

sherbet, or attempted to drink it, he says. (Reads) He gives the same funny reason for throwing away the sherbet, but it is scarcely a very satisfactory one. As I said before, it would have occurred to me to call my servant and say, "What do you mean by giving me this pummelo juice?" It would have been much more satisfactory if this pummelo juice had all been kept and analysed. And really Dr Seward seems to have acted with a good deal of haste when he threw away all the liquid and only kept the powder. He then goes on to say, "The window through which I pitched it opens upon a verandah, which is rather wide, and then comes the grass of the compound." You know that it is on this verandah the remarkable discovery is made of diamond dust and arsenic. It appears to me that after two or three days scraping this up and finding in the scrapings diamond dust is odd enough. Probably this Commission will not be inclined to attach much importance to any matter except that which came from the glass tumbler. Colonel Phayre then says, "As I was replacing the tumbler on the wash hand stand, I saw a dark sediment collect at the bottom, and a part that was then pouring down the sides of the tumbler." He then proceeds to describe the sensation which he says are similar to those he suffered upon the former days. The whole story seems odd. The throwing it away, instead of calling his servant, that he might not be tempted to drink it, the description of the coppery taste, and the darkness of the powder, I have already commented upon. And it must remain for you to determine what the value of my comments is, and what effect they are likely to produce on your minds. I have already referred to the letter in which he speaks of the confidential communication, and to show you how completely a man's mind may be perverted, I have no doubt unintentionally, by an opinion that is on it, I will just call attention to a letter that was put in. On the very day, you know, he writes off in haste to Government that an attempt has been made to poison him. Colonel Phayre next goes on to describe his interview with the Maharajah. (Reads) How unfair that is and untrue, because in the early part of his evidence he states distinctly that the conversation between him and the Maharajah began by his asking the Maharajah on the subject of his health. And it was only after that that the Maharajah told him he had been suffering from eating sweetmeats, and described his symptoms. It only shows how a man who in the ordinary affairs of life would act with perfect conscientious fairness, when he gets his mind impregnated with an idea, conveys that which is entirely untrue when you come to consider it. The Maharajah did not lead the conversation, it was Colonel Phayre. It was he that made enquiries, and it was in answer to them only that the Maharajah gave a most natural account on the subject that eating the sweetmeats had produced the symptoms he had described. And really there is not in the account given by Colonel Phayre himself the slightest ground for suspicion. Supposing the story is true, there was no earthly reason for the Maharajah to suppose the attempt would be made on the 9th. All the evidence both of Dr Seward and Colonel Phayre, would lead to the supposition that like Gunpowder Plot, the day and hour had been fully arranged, and that all the accomplices were waiting to see what came of it. The fact being

that nothing was arranged at all, and there was no day mentioned, and therefore as to all the facts about the peculiarity of Rowjee on that morning, I cannot help thinking that Dr Seward, intending of course to say that which was true, has allowed a youthful imagination to carry away his judgment, and induced him to convey what no doubt upon his own mind, but what I do not think he will be able to convey on the minds of others. Now, there was no day appointed, but if there was, do you think the Maharajah would come down on that day? There is nothing in the demeanour of the Maharajah from the beginning to the end of this case which indicates the knowledge and the impression of guilt. There is not a movement or a muscle of his face. There is not an act done out of the course of nature, out of his ordinary course—he acts as he always had done, and he meets Colonel Phayre not as a murderer, but as an ordinary visitor would meet a man whom he ordinarily visited at such a time. I do not know how Eastern princes are constituted, but they have minds like ours, they must have some emotions and fears, and we look to the conduct of a murderer immediately after murder or attempt to murder has been committed, to exhibit by manner or demeanour something to implicate them with that crime. I defy my learned friend, I defy those who have called His Highness by the harshest names, who have published to the world to their own disgrace in papers circulated through the country, terms of opprobrium and heaped upon him day by day, hour by hour the vilest terms, anticipating the decision of the tribunal before whom he was tried to lead that tribunal to forget the duty they owe to themselves and the Maharajah by falsely representing matters. Had such a thing been done in an English newspaper, the man would have been heaped with obloquy down to the end of his days. It is with indignation I have read the words uttered about that unhappy man and my blood has boiled. Living in a country where there is a free press, and an upright and honourable press, I know that the man would be hunted and singled out as a wretch, if he had done as the editor of this paper has done, heaped sentence upon sentence and written that the words that have been written in one of the papers which I am told is one of the most influential papers circulated in this country. I say there has never been one single act exhibited by His Highness to indicate that he was guilty of the crime which has been laid to his charge. I will not refer to the early parts of the cross-examination of Colonel Phayre. I do not desire to do so. It was with great difficulty I could get any admission from him of that document I have never used that document in any way except as being a matter known to the Gaekwar, and showing that he was not a likely person to commit the offence alleged against him. But I must call attention to the letter he wrote, I think to Dr Gray (Reads) I pressed him upon what justified him in saying the information he received was private and confidential. For a long time he said a number of people gave him information. Ultimately after going out to tiffin he said he got the information from Bhow Poonekur. Bhow Poonekur has been called and he says from whom he got the information, and that person has not been called by my learned

friend. Ultimately however he came out to tiffin, and on his return he said the information he got was from Bhow Poonekur. Bhow Poonekur has been called and he has given an account of the person from whom he got it; but that person has not been called. I have read this evidence with a view of pointing out the description of his feelings by Colonel Phayre himself. Take it in conjunction with other matters, are you satisfied that any real attempt at poisoning took place? This, I think, leads me naturally to one feature in the matter to address myself to, and that is the second branch of the case—viz, the tampering with the servants at the Residency. As a specific charge about the meaning of it is, and how it is intended to be used, I do not know. I can understand perfectly if it is supposed that servants are tampered with the intention of doing an injury to their master—then I can understand it. But I cannot understand and I do not know that it exists as an offence if he chooses or endeavours, however, little-minded it may be, if he endeavours to get to know what is going on at the Residency without any intention of injuring anybody. If that be the case the charge comes very ungraciously from Colonel Phayre, because it is quite obvious that he had a large number of people in his employment. He says they were not paid, but they were employed to all intents and purposes. And although they might not have been paid in money, yet a person in the ear of the Resident could get it in other ways. Can anybody deny that Bhow Poonekur was Colonel Phayre's spy, can anybody deny that he was getting information from him, can anybody deny that he was getting information from other people, that his ears were open to receive information from anybody, that he received in his own room these persons who were obnoxious to the Gaekwar received day by day and hour by hour information of what was going on in the palace? Colonel Phayre does not seem to think, and I do not say there is any harm in the matter. One instance we have was that he learnt sometime before it was sent all about the khureeta that was being prepared. He had learnt it from Bhow Poonekur, who could only have learnt it by intriguing, by bribing, or some other way the people at the palace. As far as I can see all the Maharajah obtained was the most trumpery stuff in the world. The letter from the ajah referred to something or another about a dinner party. And I do not remember that anything whatever is gained by the Maharajah by this. Even from the evidence of Rowjee, supposing it is taken to be true, all we know is that Mrs. Phayre was well disposed towards the Maharajah, and that when she came back from England she would look kindly upon him. But, as far as we can gather, he gives nothing important from beginning to end. Colonel Phayre, however, obtains valuable information, obtains information of this khureeta, and he must have got that through the instrumentality of some of the servants. Colonel Phayre in reality speaks of a number of people who are constantly giving him information, and of these Bhow Poonekur is a man he constantly communicates with, and constantly had information from. Such being the case, it seems rather hard against the Maharajah, when Colonel Phayre himself practised quite as much of espionage as was

practised by the Maharajah. Of course, I do not admit the statements made by the ayah upon this subject. They are denied entirely by the Maharajah, he denies all communication with the woman at all, and you are to say whether these occasions have been of a kind and description which will carry conviction to your minds. I submit to you that they are in the highest degree improbable. One does not understand what is to be got out of the ayah. What does she know, what can she get of State secrets at the Residency? She seems to be the last person in the world to use for such a purpose. It is now conceded by my learned friend that was what she was used for. But there can be no doubt that at first they thought that some suggestions were made to her about poisoning the Resident, and the original intention was to bolster up a case against the Maharajah by the ayah's evidence. My learned friend now attempts to connect her history with those of Rowjee and Nursoo, who, as far as I know, were not in communication with her.

Sergeant Ballantine continued. I do not deny any of the evidence of the carriage drivers who are supposed to have taken the ayah to the palace. When I say I do not deny, my learned friend will perfectly understand that what I mean is that I know nothing about it one way or the other. It is a matter perfectly possible, because the ayah may have visited the servants at the palace, and may have had plenty of gossip with them, for aught I know, and yet the whole story of having seen the Maharajah be utterly untrue. And then one of the dates given by the ayah is a very important one, and in relation to the evidence which she gave to Mr Souter, and to her subsequent statement, I think it is extremely important. There is no doubt whatever that pressure was put upon her to make her allege that she had been not a party, for that she rejected with scorn—rejected with utter disgust—the suggestion that she should assist in the poisoning. Now, it is a very odd thing that one of the visits—and this is a thing to be considered throughout the whole case—made by this woman was a visit made at the very time when Nursoo and Rowjee were said to have obtained the last lot of poison, and the suggestion originally made was, while Nursoo and Rowjee were the agents who had undertaken to poison Colonel Phayre, that at that very time, almost upon the identical day, the 5th or 6th of November, this woman also had a suggestion made to her of the same kind—not in any way whatever connected with Nursoo and Rowjee, but an independent poisoning, something apart from them, something that she was to do in her own fashion if she had not been shocked at the proposition and declined to have anything to do with it. That is an observation that I make with reference to that particular meeting. I do not know whether there will be any doubt upon that subject. Shaik Dawood says, "It was before the last Dewallee, about two or four days before" so that he fixes the time to be the 5th, 6th, or 7th November, which is about the very period when the other plot was going on and was in full play, or supposed to have arrived absolutely at its consummation. This woman asserts that she had an interview with the Maharajah, who talks to her on the subject of poisoning, which he, it is alleged, had already arranged to have

done by somebody else, and talks, as he is alleged to have talked to this woman, as if she had been Colonel Phayre's prime minister—a person of the greatest power, a person of the greatest dignity and of the greatest importance. This Commission will consider the probabilities of that story, and with the observations that I have already made upon the subject, I do think that I shall feel it necessary to trouble them further on the subject of these visits. Tampering with servants seems to me to be a matter in which both sides have done exactly the same, so that the one can hardly charge the Gaekwar for doing that, of which we had such prominent examples in the case of Colonel Phayre. There is no doubt whatever that there was a time when the establishment of spies as against the enemies of the kingdom was considered absolutely necessary and was a part of the constitution of the State. However, that was done away with in 1830. Before concluding the evidence of the ayah, I must refer to her statement given before Mr Souter, and to the circumstances under which that statement was given, because it shows very prominently how charges of this description may be raked up, and upon what miserable gossip they depend. The chatters in the bazaar are listened to, the wretched gossip that takes place here is retailed, and although the Gaekwar, who may not have much experience of the world, might have seen any of these persons, I say it is with great surprise that I learn a man holding the high position of Resident in a kingdom of this description should allow and encourage a parcel of people to be constantly retailing their stories in his ear, especially when one of these is looked upon not only as Colonel Phayre's chief spy, but as a bitter enemy of the Gaekwar. In the first statement that the ayah made to Mr. Souter, though I venture to say it was the second, you will perceive that there is not a word said about her being unwell, though meanwhile she gets unwell and then she is taken to hospital. Then she goes on to state how she visited the Maharajah on the Ramzan. Do not you remark how puerile this conversation is? You will observe that in this deposition, taken on the 18th December, there is not a pretence that the Maharajah makes any suggestion to her about poison, and we have heard the accounts of all her meetings in which there is no suggestion made except that of using sorcery, which seems to be tolerably absurd. At the time she made this statement she was unwell, I presume from her being in hospital, although she was well enough to make such a long statement. We have circumstances deposited to by Dr. Seward which are somewhat peculiar. He says he took a great interest in the ayah. Why he should do so passes my comprehension. No doubt there may have been something very attractive and fascinating in the ayah, but when she was here the other day I do not think that that fascination interested anybody who had a good opportunity of seeing her. He knew she had been in the habit of going to the palace, but that would not interest him. What was the mystery? She was under good medical treatment, but he went to see her, never communicating with the gentleman who was the medical attendant at that hospital, simply because he says he knew that gentleman. At all events, he went to see the ayah, and then, you know upon her striking an elo-

quent countenance, he discovered those marks that indicated she was moved, and Dr Seward's medical experience led him to discover in those emotions not physical pain, but the agony of her conscience, and so, to solace her, he induced her to unburden her mind to him, probably assuring her that if she would only relieve her mind she would at the same time relieve her stomach. There was one period at which a more efficient remedy was applied in the shape of a blister, but on this occasion she relieved her conscience as a kind of emetic. In consequence of what she said the relief seemed to be thoroughly sufficient both for mind and body. Dr Souter—Mr. Souter I mean, although one might call him doctor upon this occasion—was sent for by Dr Seward to administer to her, and while Dr Seward looked after the body—probably the other was engaged to look after her soul. I can well understand Dr Seward saying to his colleague, "She is under my care, and taking the interest in her that do, and wishing to see her well, I think it is right you should have this interview with her while her soul is troubled." That interview is held and the result of her unburdening her conscience is this: "On the occasion of my being taken before the Mahrashah the third time during the Ramzan, the Mahrashah asked me, after other questions, whether it would not be possible to administer something by which the Resident could be brought round to his (the Maharajah's) will. The Gaekwar spoke in cautious and hidden language, but I understood him to be throwing out a feeler to ascertain whether I would consent to administer poison to my master, Colonel Phayre." Now I ask my Lord Chief Justice, whether ever in the course of his experience or his reading he ever found such a sentence in a deposition. This common woman, this ayah, is made to say "I understood him to be throwing out a feeler." Now did that ever come out of the mouth of an ayah? Then she says, alluding to the administering of poison to her master, Colonel Phayre, "he spoke in cautious and hidden language." Really if she said that the ayahs of this country beat the nursery maids in ours. Then she says, she indignantly refused and objected. Just fancy the ayah refusing and detailing her refusal to Dr Seward. Now I really do ask the members of this Commission whether so grotesque a falsehood was ever attempted to be foisted upon reasonable men. Then this moral and highly educated ayah says, "I said it would be better that lakhs of people should die than that the support of lakhs should come by his death." And to this wretched stupid old woman, who had no power on earth to administer poison, and no chance of doing anything else but chattering everything said to her as soon as she got into the bazaar, it is supposed that the Maharajah who must have some amount of decent intellect, is supposed to have spoken to her in this way and made her an accomplice when it would appear he had made other arrangements with other people. I hope that, when the Commission comes to consider some of her answers they will remember that she admitted at last that her statement had no foundation, and that never from the beginning to the end was any suggestion whatever made to her except that she should use a charm on the Resident in favour of the Maharajah and that nothing whatever justified her in supposing that the Maharajah had contemplated poison. There

is another passage to which it is my duty to call your attention. The ayah was asked, "Did Mr. Souter ask you if you knew anything about the poisoning?" Now just fancy beginning with a woman like that, and suggesting poisoning, and what she was wanted to say. Now, look at the answer this woman gives upon the spur of the moment, "Yes, they threatened me and said if anything of the kind was said I should say it. I told all I knew." So here you have in the first instance Mr. Souter putting directly in her mind the notion, and then you have Akbar Ali threatening her about the poison. In fact, her story is one mass of absurdities from beginning to end. I have examined those statements and I have also considered whether it was possible there was any means to answer the case, and I have found that there is not a single instance in which there is not a single witness worthy of any attention as being present at any of the proceedings. My learned friend asked a witness—and unless he had done so I would never have made any allusion to the subject—whether or not there had been any access on the part of my client to Salim and Yeshwantrao. I presume that the object of that question was to suggest that Salim and Yeshwantrao were witnesses to be called on the part of the Maharajah, but in the first place the Maharajah in no respect whatever recognizes any of these proceedings. He cannot tell, and his advisers are unable to suggest to any certainty whether these men are or are not accomplices with Damodhur Punt, they may be so or they may not be, they are people connected intimately with Damodhur Punt according to Punt's own statement. They are persons who have gained a livelihood like Damodhur Punt by embezzling their employer. But moreover from the time of this enquiry down to the present moment they have been in the hands of, and are now, in the hands of the police. My learned friend has not hesitated to call tainted witnesses here, they have called no other. Why should they not have presented Salim? He is not a greater scoundrel than Damodhur Punt. Why should they have not brought forward Yeshwantrao, he is not a greater villain than Rowjee? They might have called all these which would lead me to suppose, and there is nothing in the conduct of this case that they might have been called if they could have been found to confirm a single question. But I say unfeignedly I could never have learnt what I have done as to the police in the present case even if these men had been men of a better cast than I believe them to be, and even if these had been anything whatever that the Mahrashah was called upon by evidence from respectable sources to give an answer to, I should have felt the utmost unwillingness and the utmost doubt upon the subject regarding the calling of Yeshwantrao and Salim. They would have come out of a custody from which nothing could be safe, and unless they could have proved some facts of which the Gaekwar was cognisant, I should have felt the deepest hesitation in putting those men into the witness-box. It is not for me to make out a case on behalf of the Gaekwar. I believe now that these men have lent themselves to proceedings utterly unjustifiable if the story of the different witnesses be true, but these proceedings the Gaekwar knows nothing about. No independent nor honest witness has implicated the Gaekwar in any

way, and I will not put into the witness-box men who have been in the hands of the police up to this time, and who may probably have been implicated in that what may have been an attempt by one set of persons although not carried out by another. My Lord, whether I am right in that course or not I need not say my judgment has been left perfectly free and unbiased, and it is upon my judgment that I act upon this occasion. I decline absolutely to put forward these people. I refer back to the evidence given and submit to this Court that the evidence is utterly unsatisfactory and that the charge made against the Gaekwar entirely falls to the ground. My Lords, it is really with a deep sense of gratitude that I thank you for the attention that has been paid to the arguments I have humbly and probably insufficiently pressed before you—arguments that may be fallacious, but which I have earnestly, and in the belief they are worthy of consideration, pressed upon your attention. My Lord, you have given, I am sure, and will give, the fullest effect to them. I have felt the weight of this case and the deep responsibility cast upon me. No case probably has ever excited more general attention—that will be watched with more jealous care—that will be canvassed by more critical minds. It is, probably, the very first example that I know of, in which a man in the position of the Gaekwar charged with an offence of this character or indeed with any offence at all, has been put upon his trial. We know well the history of India furnishes many examples of it, how the Viceroy has frequently with a high hand taken upon himself the supposed necessary correction of those who have acted contrary to that which is just, or the view which the Viceroy has taken on himself to think is correct. But on the present occasion His Excellency the Viceroy has felt it right when there is a grave accusation against a great prince in the kingdom that that accusation should be sifted. He has seen upon paper, probably sufficient grounds for an enquiry, and he has instituted that enquiry—the first I say, that has ever existed in this country, and by which English law and English justice are called upon to assist in an inquiry connected with a charge against an Indian prince. My Lords, to me, at all events, that is a profound satisfaction, for whilst admitting and feeling deeply my own incompetency—and in that I am not talking from any false feeling of modesty, because I believe there is hardly a counsel in the land who would not have the same sense upon the matter, and probably justly so, for it requires indeed a great grasp of mind, great power, and one would have been glad if one could have brought to bear upon the subject great eloquence. I have only been able to bring to the subject calm reasoning and such as I wished and calculated would have an effect upon the judgment and minds of the Commission. Again, my Lords, I thank you for the attention you have paid me—I implore you not to consider that what I have said is all that can or might be said upon the part of this unhappy prince. I implore you to look into the minutes of the evidence. I believe in that minute will be found matters upon which I have not relied, but which have strong bearing to show that the Gaekwar is entirely innocent of this charge. Cast from his throne, exhibited to his people under cir-

cumstances of degradation, not one man scarcely dare, while the investigation is going on, to come forward and say a word in his favour—he has solemnly declared his own innocence, and I as his counsel have referred to the evidence given here, and solemnly ask the tribunal which has to try him by equal judgment and justice of English laws, to say that the veriest pick-pocket ever charged with an offence could not have been found guilty upon the evidence by which it is sought to deprive a sovereign prince of his throne.

The Advocate General. Perhaps it would be more convenient if the Commission would now retire, and I could then proceed to address them without the prospect of an immediate interruption. But I am quite ready to begin if the Commission should think it necessary to do so.

The Commission then adjourned for fifteen.

REPLY OF THE ADVOCATE GENERAL ON THE WHOLE CASE.

On the re-assembling of the Commission the Advocate General rose and said—My Lord Chief Justice, Commissioners and Gentlemen.—It now becomes my duty to call your attention to such observations as have presented themselves to me upon the evidence which has been recorded in this matter, and on the able and eloquent speech we have heard from my learned friend, Sergeant Ballantine, in defence of His Highness the Gaekwar. And I feel that the task which now devolves on me would be one almost greater than my strength, were I not satisfied that the evidence I have been able to introduce before this Commission has established the truth of every one of the material propositions I stated to the Court in opening this case. It was a satisfaction to me to find that my learned friend recognised in the course of his address the satisfaction with which he, and I presume his client, received the course which has been adopted by the Government of India upon this occasion. My learned friend has recognized in the fullest degree that the Commission which has been appointed to enquire into this case, is one to which no exception can be taken. He has said that though the decision at which the Commission shall arrive be one with which he may not agree, yet he will feel he can offer no valid or substantial objection to it. Of my learned friend's part in the case it is not for me to speak. He has brought to this country a reputation not merely English but European. He has before this Court exhibited those qualities which have raised him to the foremost place at the English Bar. It cannot therefore be said, if the Commission should arrive at a decision adverse to His Highness, that it has been for want of ability on the part of his advocate, for, indeed, my learned friend has introduced into this case a sympathy for his client which was not perhaps unnatural under the circumstances, and which has found expression continually in the course of his argument, and that sympathy which my learned friend has expressed and felt has not detracted in the least from the force of the arguments he has offered, or changed the colour of the address he has made to your tribunal. There has been no weakening of his argu-

ment by his feeling I say, therefore, before a tribunal so constituted, and a defence so conducted, there can be no doubt the opinion the Commission come to must be one to command not only the respect of those outside of this trial, but of the Maharajah himself. Under these circumstances I have been somewhat surprised to hear that my learned friend has dwelt

property having, for the time been placed under attachment. It would have been impossible for any other course to have been pursued and my learned friend himself must be satisfied that in suspending His Highness from power in so providing for the safe custody of the property of the State, the Government of India has done no more than its duty, but it would have failed in its duty if it had not done so. The defence which he has presented to the Commission on behalf of His Highness, is not merely contained in the arguments of my learned friend, but in the statement put in by His Highness, a carefully prepared and well weighed document which is now before the Commission. That statement really amounts to nothing more than this, that it is in elaborate phrasology a plea of not guilty. It is a statement not vouched by any oath, it is a statement which we must take to be made by His Highness on honour and to it such weight must be attached as the Commission may think fit to attach to a document put in under such circumstances. I have no desire to cavil at the course thus adopted. It does not appear to me to be any necessity for subjecting His Highness on the plea put in to any cross examination whatever. My learned friend following the general statement contained in that plea has disengaged with that ability for which he is remarkable the evidence that has been offered, and we find the defence put forward comes really to this, that instead of the circumstances which your tribunal has to investigate being a conspiracy on the part of the Gaikwar to obtain the death by poison of the Resident at his court it is really a conspiracy on the part of the police to bring a false accusation against His Highness. For that defence I was prepared, though I was not prepared to hear it in quite the form which my learned friend finds himself under the necessity of adopting. His defence comes to this, that all the evidence to support the greater charge against His Highness has been manufactured by the police by Gujanund Vitthal, Akbar and Abdool Ali, and strange to say my learned friend has not hesitated to state that Mr Souter himself was party to the base conspiracy thus made. Now before I go into the consideration of the case proper, let me go into the question that this is a case got up by the police. It will be in the recollection of the Commission that Sir Lewis Pelly stated that among the matters he was to enquire into was the very question of attempting to poison Colonel Phayie. Mr Souter's services were applied for by Sir Lewis Pelly, and he came here on the 9th December just one month after the alleged attempt, and was accompanied or immediately followed by the very police officers I have mentioned. Of these three men it may be permitted me to speak a few words. Akbar Ali is an officer of forty-four years' standing, having entered

the service of the Government, as he has told us, in 1831. He has received in recognition of his services the title of Khan Bahadoor, a distinction conferred by the Government of India, and not conferred lightly. During the whole of those forty-four years, not one thing has happened upon which my learned friend could cross examine him. There is nothing that can be attributed to him as the slightest disgrace. He comes before the Court as one of unblemished character, whose services have been recognised by the State. The junior Khan Sahib, Abdool Ali, has not of course served the State so long as has his father, but he has served it long and faithfully for twenty years, and has already been rewarded with the title of Khan Bahadoor. There was nothing upon which my learned friend could have cross examined him, and there is no doubt that he would have been instructed to do so if anything could have been found. We may therefore take it that, like his father, his character is untarnished, notwithstanding the length of time he has been engaged and the delicate services he has had to perform. Gujanund Vitthal also has been for a long time in the service of the State and has received the distinction of Rao Khan Bahadoor—a position of some distinction to a Mussulman, and which he has filled for some years. The only point upon which my learned friend was instructed to cross examine him as to his previous career was on what is known in this part of India as the Koth Succession Case in the first branch of which heard before Mr Coghlan Gujanund Vitthal was otherwise concerned than as a witness, and the passage from the judgment of Justice West, which my friend was instructed to read in no wise referred to the police. These are the three men, three old and deserving servants of the State, whom my learned friend has been instructed to describe as utterly and absolutely unscrupulous men, concerned in a vile conspiracy. The Commission, I venture to think, will be of opinion that there is not the slightest grounds for such imputation. They have done nothing of which they need be ashamed. My Lord, my learned friend has frequently observed that he has been told this by various persons whom he has, not named. I have no doubt he has been told a great deal since he came to this country which he would not have repeated had he been acquainted with this country, and particularly with the persons connected with this case. There are a large number of persons who have a bad opinion of the police, and they have generally been concerned in some way or other with them. The criminal classes, for instance, all over the world have no love for the police, and probably some of the persons who have given my learned friend information, have not a very pleasant recollection of the days they had to pass through the hands of the police. But when my friends instructed my learned friend to say that Mr Souter deliberately left the room when Rowjee's belt was about to be examined, knowing that if he left the investigation in the hands of Akbar Ali, something would come which did come, and when my learned friend went on to say that he was lead to believe a respectable witness capable of that, I think my learned friend has been very ill-advised. Mr Souter is well-known, at any rate in this part of India. He has been

here many years. His services have been recognised by his being made a Companion of the Star of India, the same decoration, though less in rank which is so worthily worn by three of the Commission. And even if not, the circumstance that he was an English gentleman ought to have secured him from such an imputation as has been cast upon him. The reputation of Mr. Souter is as dear to him as mine is to me, or as my learned friend's is to him. I do not recommend the case which has been put forward on the part of the defence, that a gentleman of Mr. Souter's position and character should be considered by my learned friend not only as a puppet, but as an active agent for the purpose of ruining the reputation of the Gaekwar. Had Mr. Souter's character been capable of attack I have no doubt it would have been attacked in cross-examination. It was not attacked then, and it was with feelings of very great pain that I heard the remarks of my learned friend. The character then of the police officers specially deputed by Government to this work were well known and ought not to suffer from the imputations which have been cast upon them, and which I am sure would not have been cast upon them if the matter had been fairly weighed. It does too, occur to me to ask what motive the police could have to get up a case as my learned friend has argued. What interest would it have been to them? My friend has not come here to say that it was the policy of the Government to drive Mulharao from the gadee. No such suggestion has been or can be made. It is not warranted by the circumstances of the case. All the police did was to enquire into the commission of the crime. If the Bombay Police wanted to remove Mulharao it would have been easier to fix upon Damodhur Punt as a person through whose instrumentality it could be carried out. There was no object of ruining the Gaekwar. There was no object in accusing the Gaekwar, unless the evidence leads us to believe that it was justly and truly made. I think, therefore, I may ask the Commission to dismiss from their minds, as far as the character of the police and the probability of the case are concerned, that this is not a case which has been got up by the police. Had it been got up by the police, after the compliments which my learned friend has paid to their abilities, surely we might have expected that the evidence would have hung together better than it has done. The witnesses would have been so tutored that they would have agreed better than they have done. We might certainly have expected a more perfect case if the ingenuity of the police had been at work. It must be patent the police have done nothing more than their duty from slight indications at first to fuller indications afterwards of the attempt to poison Colonel Phayre. When they come to trace the sequences from the cart driver who first casually mentioned having taken the ayah from the camp to the palace, up to the confession of Damodhur Punt, I think the Commission can come to no other conclusion than that all the police did was to record from day to day what they had obtained in regard to the discovery of this attempted crime. I shall more fully dwell upon this subject as I go through this case. I think it more important to trace the discovery of the evidence in the case. But not only in the sequence in

which they were brought one by one the Commission will find that my learned friend's theory cannot be supported. We are told of torture. We are informed a kind of rack or thumb screw was used, and that a sort of moral pressure has been applied by the police. It is strange that this being so, one of the rooms at the Residency should have been selected as the theatre of pressure and torture. It cannot be that Sir Lewis Pelly has been a party to this conspiracy, yet it is difficult to understand otherwise why this torturing should have occurred in the very room which forms the immediate communication between the dining-room and the private office at the Residency, a place where there was access, a place into which Sir Lewis Pelly must have gone continually and other persons also had continual access. Only here is it that the alleged torture was applied. I do not think that the theory my friend has put forward will be accepted by the Commission and unless that is so I fail to see what answer there is to the charge brought against His Highness. One other point I may mention, and it is this that Sir Lewis Pelly was on the point of going to Bombay for the Christmas holidays, when Rowjee gave his statement and he did not go. Had Sir Lewis left Baroda there would have been no inquiry. This shows no intention on the part of the police to make a police case. It was only in consequence of that statement, that Sir Lewis Pelly and Mr. Souter deferred their visit and which led to the other statements which were afterwards made. My Lord, another point which I may mention and which was dwelt upon in the speech of my learned friend—namely, that the material witnesses in this case are accomplices and my learned friend has asked that, therefore, their evidence if not actually rejected, at all events be utterly discredited. Of course anyone at all acquainted with the proceedings of courts of justice knows that there is always a degree of suspicion attached to such evidence. I am aware that such witnesses come into Court under great disadvantage, but there is no rule in Jurisprudence of India which renders the evidence of an accomplice inadmissible. In England it is customary for judges to advise the jury that it is not safe for them to act upon the evidence of accomplices unless it is corroborated in some material point, but it has been held, and your Lordship the Chief Justice will be familiar with the ruling, that it is no misdirection if a judge omit to give that caution. In India at all events there can be no doubt, that a conviction is not illegal because it produced from the uncorroborated evidence of an accomplice. I mention this because it may have been conveyed to the public by the address of my learned friend that such was actually and positively essential. I think however, I shall find no necessity to fall back upon that, as in this case corroboration exists in vast quantities. Perhaps I may also mention another point which was adverted to by my learned friend and that was the demeanour of His Highness the Gaekwar after he had discovered the fact that an attempt had been made to poison Colonel Phayre. The Commission will remember that immediately it was mentioned that suspicion attaches to him, and before he paid the ceremonial visit to Sir Lewis Pelly, the Maharajah had not heard of Rowjee's state-

ment My learned friend has said that from that afterwards his demeanour was that of an innocent man, that he surrendered Salim and Yeshwantrao as soon as he was asked I am not disposed to attach much importance to the surrender of Salim and Yeshwantrao I do not see how it could have been refused The application was addressed to Dadabhoi Nowrojee, the Gaekwar's Dewan. No doubt he would advise the Maharajah to surrender the two men There would be no doubt in his own mind as to the proper course to adopt, and no doubt it would occur to His Highness that it was not only wise to do so but that he could not have help it had he wished Moreover, with regard to the rest of the conduct of His Highness, when he was informed he was implicated until the time he was arrested, I fail to see what there was in the conduct of His Highness from which a conclusion one way or the other could be drawn No doubt it would have been possible for His Highness to have raised the standard of revolt, or he might have taken flight but either case would have been an admission of guilt The course which he adopted was that which would naturally suggest itself, not only to his Asiatic mind but to the mind of any one in his position That course was to stand by and abide the consequences He stood by and remained passive And if we read his conduct by the light of Damodhur Punt, we can understand why he remained passive Not only did he understand beforehand that the attempt was to be made but on the 9th he knew that the attempt had been made and had failed He had followed the progress of the affair with anxious eye He was kept informed of every movement Damodhur Punt has described him in his alternations of hope and fear, how he praised the sagacity of Rowjee, rejoiced for his liberation, how when Salim and Yeshwantrao returned to the palace he was pleased, and when they were sent for again he was afraid and did not allow them to go without telling them that whatever might happen they were not to say anything And that his confidence was well placed is evident from the fact that up to this time they have said, notwithstanding they have been given up to be scapegoats on the part of the defence Not only then in the character of the evidence given, but in his demeanour there is nothing to exonerate His Highness from the charge imputed to him This charge may here be conveniently referred to, because they group themselves under two heads the tampering with the Residency servants, and the attempt to poison Colonel Phayre I will read the charges from the Notification —

I —That the said Mulharao Gaekwar did by his agents and in person hold secret communications for improper purposes with some of the servants employed by Colonel Phayre the Resident at Baroda, or attached to the Residency

II —That the said Mulharao Gaekwar gave bribes to some of those servants, or caused such bribes to be given,

III —That his purposes in holding such communications and giving such bribes were to use the said servants as spies upon Colonel Phayre, and thereby improperly to obtain information of secrets and to

cause injury to Colonel Phayre, or to remove him by means of poison

IV —That in fact an attempt to poison Colonel Phayre was made by persons instigated thereto by the said Mulharao Gaekwar

Now, my Lord, the third and fourth charges related to the application of poisoning The first and third relate merely to the bribing of servants at the Residency by the Gaekwar for the purpose of obtaining information which it was not proper should be obtained My learned friend has addressed himself to this minor charge, but he has not disposed of it In fact, as far as I could gather, I think he admitted it, as does also the Gaekwar in the statement he has put Let us see what the Gaekwar says on this point

"I solemnly declare that I never personally or through any agent procured or asked the procurement of any poison whatsoever for the purpose of attempting the life of Colonel Phayre, that I never personally or through any agent directed any such attempt to be made, and I declare that the whole of the evidence of the ayah Ameena of Bowjee, Nursoo, and Domodhur Trimbuck, on this point is absolutely untrue

"I declare that I never personally directed any of the Residency servants to act as spies on the Resident or report to me what was going on at the Residency, nor did I ever offer or cause to be paid any money to them for such purposes.

"I say nothing as to the presents that may perhaps have been made to servants of the Residency on festive occasions such as marriage and the like Information on trifling matters going on both at the Residency or at my own palace may have been mutually communicated, but I did not personally hold any intercourse with those servants for this purpose nor am I personally cognizant of any payments for the same having been made, nor did I authorise any measures by which secrets of the Residency should be conveyed to me

Now you will notice that he does not say "I never personally or by any agents give any bribes, as he does in regard to the graver charge He limits the denial to his own personal hands Then he admits giving presents That I think is a very material admission Simply it comes to this the Maharajah denies that he personally had any improper communications, and that he personally paid no money He nowhere denies—in fact he tacitly admits—that such payments were made by his servants, and were made for these persons It is not for me to discuss the question whether or not there is any difference between the information which Colonel Phayre received and the information the Gaekwar received It appears to me there is a wide difference between a British Resident receiving voluntary information from persons who visited the Residency, and a native sovereign bribing servants I think the difference need only to be stated to be appreciated, but that the Maharajah had established these communications and for improper purposes, and did pay for them, is I think, clear beyond all doubt, not only from the admission made by the Maharajah himself, but by the evidence in the case I do not think it will strike the Commission as at all remarkable that persons in the position of Residency servants should

have been introduced into the presence of the Gaekwar I do not think they will think there is anything improbable in the story told by the ayah I am tolerably sure that they who have visited the palace and have seen the way they were introduced into the palace by the door abutting on the Nuz zu Baug into the place in which he sat—that the place he saw them in was a small room with mirrors in it—I say that I do not think the Commission will be of opinion that the story so far as relates to the access to the Maharajah's apartments is an invention It is not suggested that these witnesses have been taken to the havalee and had the place shown to them The only time the question was put it was denied On the contrary, that they have not done so appears clearly I think from the evidence That the rooms on the top of the house in that particular corner of it are the rooms is admitted by Damodhur Punt, than whom no one should have better opportunities of knowing That the Maharajah would be likely to be found there is patent from the fact that he usually occupied these rooms And I think my learned friend to day has given up Yeshwantrao and Salim and has represented them in an unfavourable light It is certain they were two of his officers, in the habit of accompanying the Gaekwar on his ceremonial visits likely agents in any communications established with the Residency servants My learned friend admits that he is not in a position to quarrel with the account given by the cart drivers and those who have accompanied the ayah and Rowjee to the palace Your Lordship will remember that it was in consequence of a statement given by one of these that the whole story was obtained It cannot be doubted that the ayah went on one of the occasions she deposed to and although my learned friend has suggested that she went to see some of the servants at the palace that would certainly be likely but if so she would hardly select the dead of night to make such a visit Even Rowjee was so alarmed that he always induced some one to accompany him Sometimes it was Jugga and sometimes it was Karbha My learned friend thinks it highly improbable that a prince would hold communication with an ayah The servants of native Courts, however, stand upon an entirely different footing to the servants at a European Court One of the principal servants of the palace, Damodhur Punt did not live in the palace so that there is nothing strange that Mulharao should pick upon some one of no greater importance than a servant to convey news from the Residency to the palace And it cannot, I think be assumed for a moment that there would be any probability of this time of night being selected for the servants of the Residency to visit other servants of the palace It would be likely that a servant of the Residency going to visit the Maharajah would go at a time when her visit was not likely to be discovered My learned friend does not suggest that the Maharajah was personated on these occasions Such a suggestion I think, would have been impossible to make It would be, I think, a most difficult thing to mistake His Highness for any one else His appearance is sufficiently remarkable to make him easy of recognition by any one who has ever seen him These Residency servants had all had ample opportunities of seeing him

It is not suggested that his personal appearance was not perfectly well known to them Unless, therefore, the Commission are of opinion that the story told by these witnesses is utterly untrue, I take it, it must be held to be established beyond all question that the ayah did on those three occasions go to the palace for the purpose of having a personal interview with the Maharajah No doubt the evidence as to the personal interview rests upon statements of the ayah and others who accompanied her on these occasions into His Highness's presence Fyooo on one occasion and Curreem on another But there is an important corroboration of their story upon this point to be found in the letters which are admittedly genuine which were discovered in the ayah's house and which passed between her and her husband when the one was at Mahableshwur and the other at Baroda and Bombay That is a part of the case to which I do not think my learned friend would attempt to apply the argument that it is got up by the police Gujanund would not be an answer to the postmarks on the envelopes And these letters show that the ayah was in direct communication with the Maharajah himself I take it therefore as established by the evidence and established most clearly that these communications did exist between the Residency servants and His Highness and that they were held in secret and for improper purposes I do not suppose it would be for a moment contended that it could be for a proper purpose that a prince would set the table servants of a Resident to have to repeat it to him through these servants what passed at the Residency and when it is remembered that these communications were established at the time General Meade's Commission was sitting at Baroda and were continual while the Commission sat, and afterwards, I think there is no doubt whatever that what the Maharajah intended to do was to pick up from what fell at the Residency any information that might be useful to him in shaping his course during that investigation And when we look at the nature of these communications I think that suggestion is established as being perfectly true One of these letters is in evidence and is spoken to by Yeshwantrao, who is by no means a willing witness against his master He is a man who was the director of the shroff's shop established by His Highness and he jumped at the suggestion made to him by Mr Branson that he was detained in jail for having read one of these letters He says that in the absence of Damodhur Punt he was once called upon to read one of his letters to His Highness, and by His Highness's directions he gave back the letter to Damodhur Punt Damodhur Punt stated that these letters were passing daily between the Residency and the palace And these communications were not merely for the purpose of retailing any conversation that might take place they went to other matters, because we have it on the evidence of Damodhur Punt that Rowjee brought an important document (the petition of Junnabasee to Government), and that it was copied and returned by Rowjee to its place on Colonel Phayre's table Can it be said that these punkah wallahs havildars, the ayah, and other servants, the inferiority of whose position protected them from suspicion on the part of their master, were engaged by the Maharajah

to retail to him the idle chatter and gossip about their master? It occurs to me that they were engaged to endeavour to make Mrs Phayre or Mrs Boevey speak a good word for the Maharajah. It occurs to me that it would be not unnatural for His Highness to wish to enlist on his behalf butler, Pedro, a man whom he knew had been a long time in his master's service, and from his position as waiter at table was in a position to hear what was said. And, my Lord when you consider the price that was paid to these men for the services they rendered, the price paid to the ayah for the services she was to render, can we say these sums were not bribes? My learned friend says that Rs 500 is a small sum. From some points of view it is a small sum but it is a large sum to a man whose monthly pay is Rs. 10. That Rowjee got that payment is not disputed, the c/o Dulput proved it in the witness-box, that payment must be taken to be proved beyond all doubt. What inducement could there be for Yeshwantrao to pay this sum? My learned friend says Yeshwantrao was an inferior creature, and may have been in the employment of Damodhur Punt. What inducement was there for Damodhur Punt to employ Rowjee to give him information? And this large payment of Rs 500 was made for the giving information only, because as my learned friend says, it was made long before any poison was talked of. When we remember that Yeshwantrao was the confidential servant of the Maharajah, and it was he that introduced the Residency servants to the Maharajah, is it not evident that money was paid not by Damodhur Punt but by the Maharajah? But that payment was not the only sum that Rowjee received for giving information he divided Rs 500 with Nursoo shortly after their return from Nowsaree. You will here two large payments in less than two months—payments which, though not enormous to the Maharajah, were enormous as compared to the regular salaries of the persons employed Nursoo, I think, got his pay Rs. 14 a month, and Rowjee's 10 or 12. Thus we see Rowjee obtaining first five and afterwards four hundred rupees, and Nursoo getting four or five hundred rupees. Then there is Pedro H admits the payment of Rs 50 when he was about to go to Goa. It does not clearly appear why that money was given unless for some service to be rendered. Then we have Shaik Curreem who accompanied the ayah. He was a table servant and would hear what went on at table, and we find him receiving one hundred rupees at the same time a hundred was paid to the ayah. Your Lordship will find on referring to the entries put in by Damodhur Punt that payments corresponding very nearly in amount to some of these bribes were made from the khangai department at the very time the servants say they received these bribes. It seems that on the 19th January 1874 Rs. 600 was paid to Yeshwantrao. And that would be about the time Rs 500 was paid by Yeshwantrao by the hands of his servant Dulput to Rowjee, and it would be quite in accordance with what one would expect to find in this case that some of the money would remain in transit in the hands of Yeshwantrao. Then your Lordship will find that Exhibit 41 is a statement of a payment out of the treasury of Rs 1,000.

on the 8th June 1874. That would be very shortly after the return of His Highness and the Resident from Nowsaree. Exhibit N1 is a payment of Rs 200 on the 15th May 1874, which corresponds very nearly with the payment of Rs 200 to Curreem and the ayah. And without following out further these documents, I think I may state that we find shown upon the records of the khangai department payments made out of that department to Salim and Yeshwantrao of nearly corresponding sums of money at or about the time the servants profess to have received the payments. I do not think it can be reasonably suggested that all these payments were made by Damodhur Punt for his own purposes or that Yeshwantrao and Salim were mere agents of Damodhur Punt's. The money no doubt passes out of Damodhur Punt's treasury, but the payments were beyond all doubt made by the Maharajah. That Rowjee had the money was perfectly clear and that was one of the matters that directed the attention of the police to him. That he had made large purchases of jewellery at the time these sums were paid. Exhibit B shows at what time the ornaments were made some were bought in October last, and others in February and March. I think therefore there can be no doubt that the money was paid out of the Gaskwar's treasury by his directions to those servants for the purpose of giving information of the character to which the witnesses have deposited. And coupling that fact with the statement in His Highness's plea that he never had personal communications with the servants, though he does not deny that he had indirect communication with them though he does not deny that he made presents to them on the occasions of marriages and feasts completes this part of the charge. My Lord my learned friend has suggested that any prince is likely to be surrounded by evil counsellors and to have things attributed to him for which he is not justly to be held responsible. There can be no doubt I think that the Gaekwar was to some extent so surrounded. I am not here to defend the character of Damodhur Punt. Nothing, I think my learned friend could say of him would excite my indignation or provoke any defence from me. From what he admits he has done, he is a very bad man but when we find that a man of that character is retained by His Highness as his Private Secretary and most trusted servant, when we find even after the attempt to poison Colonel Phayre was under investigation His Highness introduces that man to Sir Lewis Pelly as his Private Secretary, I must say that I do not think His Highness can come before this tribunal with any serious expectation of being held entirely irresponsible for what a person in that position might do or has done on His Highness's behalf. My learned friend has referred to Yeshwantrao and Salim as being scoundrels likely to obey the behests of Damodhur Punt. It is to be remembered that they were much more likely to obey the behests of the Maharajah than the behests of his Private Secretary and therefore, if we had a number of witnesses coming forward, and one of these witnesses admitting his connection with certain acts, and justifying his connection with these acts, because he is entirely under the orders of his master, I think it is not diffi-

ult to come to the conclusion that when that servant says he is simply obeying the orders of his master, he is making a true statement. My learned friend has said that Dhomodur Punt Yeshwantrao and Salim are persons likely to take part in such an attempt as that charged in the third and fourth charges against His Highness. We therefore have this, that in regard to these more serious charges my learned friend admits that if His Highness was concerned in the attempt, he could scarcely have found three fitter instruments than his Private Secretary and two confidential attendants. Now, my Lord, before I go into an investigation of the evidence which connects the Gaekwar with the attempt to poison Colonel Phayre let me briefly refer to one or two matters on which my learned friend also dwelt and the first of these is this. I do not think in respect of what my learned friend suggested rather than argued, that this Commission can come to any other conclusion than that this attempt to poison Colonel Phayre was in point of fact made by some one on the 9th of November. My learned friend asked if the Commission was satisfied that such an attempt was made but I do not think he seriously meant to dispute that such an attempt was made by some one and I do not think it can be doubted that the attempt was made to poison Colonel Phayre by arsenic. A good deal was said by my learned friend upon the colour of the sediment which Colonel Phayre noticed in the glass and which was also shown to Dr Seward. But I think when the Commission look carefully at the evidence on that point they will come to the conclusion that though a good deal was said on this branch of the case there was really not much in it. Colonel Phayre no doubt described the sediment when he first noticed it as being dark. Well it may very well have appeared dark to him. The Commission will remember the circumstances under which he saw it. Some of it was at the bottom of the glass and some was trickling down the side. The glass had been previously filled with a solution of pummelo juice itself of a pink colour. Colonel Phayre when he noticed the colour, was, under the influence of poison and one of the effects produced on him by the poison was as he says, dizziness, of the head and swimming of the eyes. That would not be a condition adapted to very accurate observation and Colonel Phayre seeing this sediment through the coloured fluid, would be very likely to ascribe to it a darker colour than the less excited observation of Dr Seward. The vehicle in which the sediment was contained was itself darkish, and even a white powder put into a dark liquid will look itself dark till separated from the liquid. My learned friend (Mr Inverarity) has made a suggestion which would also account for it and that is that some people are what is called colour blind or have not that appreciation of different colours which others have. Another solution occurs to me and it is this. If at the time Colonel Phayre was holding the tumbler he held it in juxtaposition to a dark object the colour of the object would communicate itself to the contents of the glass. But whatever the impression on Colonel Phayre may have been there can have been no doubt whatever as to the effect on Dr Seward. He came over on being sent for by Colonel Phayre and on

being asked to examine the sediment, he devoted his best powers of sight and thought to investigate what the glass contained. He says he held the glass up against the light, and then detected the powder of a light colour in the glass. My learned friend says Rowjee described the powder he received as dark colour. Well, we all know how the natives of this country when speaking of colour do not follow the same nice distinctions that we do. But Rowjee only says that the powder he introduced into the sherbet was dark using the word 'kali' and qualifying that word by pointing to one of the numerous hats then on the table, which was not black, but rather of a grey colour. But as to Dr Seward's evidence there can be no doubt whatever he examined the powder with the care of a man of science, knowing that he would have to experimentalise with it. That that sediment was found to contain the ingredients arsenic and diamond dust I apprehend there can be no doubt. Dr Seward by his own independent experiments found arsenic by means of the reduction test, and diamond dust by microscopic investigation. The reduction test though one of the easiest, is also one of the surest by which arsenic can be discovered and though Dr Seward did not turn the metallic ring formed on the tube into crystals of arsenic there can be no doubt that that metallic ring by itself would be an almost conclusive proof of the presence of arsenic in the substance from which that ring had been evolved. Dr Gray, however subjected the sediment sent to him to the most rigorous investigation. He was not satisfied with the reduction test, though it yielded precisely the same metallic ring as that produced by Dr Seward but he tried a number of other tests and having by those tests reduced the sediment to various chemical substances evolved the pure arsenic again.

The President Will you kindly refer to that passage?

The Advocate General Your Lordship will find it at page 68 it is the first question in re examination.

The President The question explains the answer, I had only the answer on my notes.

The Advocate General continued I may mention in regard to Dr Seward that though he did not reduce the metallic ring into the form of arsenic again, yet another test he applied discovered the octohedro crystals which are one of the surest signs of arsenic. If these tests were not conclusive and I apprehend they will be conclusive to the mind of the Commission, there is that other circumstance Dr Seward noticed, namely the powdery film created by his gently shaking the fluid in the tumbler. But I am not inclined to go minutely into this because I think the Commission can come to no conclusion except that arsenic was introduced into the sherbet on the morning of the 9th November. The film is important to be considered in regard to this point, because it was produced before the addition of any water by Dr Seward. I think my learned friend would contend although he rather abusively said it eventually that in the water Dr Seward applied there was contained any arsenic. That was all cleared up by Govind He said he had that morning as usual filled the coo^t and basin from the jar for the reception of water

which stood outside the dining room for general use I did not suppose, though my learned friend put some questions at the time, and it was a matter which required to be cleared up, that he would suggest and ask your Lordships to conclude that the arsenic or deleterious substance found were contained in that water Dr Seward took from the coojah As to the other ingredients of the residuum I think there can be little doubt that diamond dust does not offer the same ready means of detection as arsenic by the usual processes Why there are certain simple means by which it can be discovered There is first of all the appearance of the particles themselves, they are hard, sparkling and lustrous They stood the severest tests applied to them Then Dr Seward was enabled by rubbing one small piece of a glass slide against another to scratch the glass This evidence showed that besides diamond there was another substance which was capable of scratching glass in this way, and that was corundum And my learned friend was referred to Dr Gray But my learned friend dropped that part of his cross examination of Dr Seward when he came to Dr Gray The evidence of these two men of science pursued perfectly independently and without communication with each other, both resulted in this, that they considered this other powder found in the sediment to be diamond dust Dr Gray's attention was not called to it till after he himself had written to enquire whether or not the substance was diamond dust It had occurred to him perfectly independently of any suggestion from Baroda There was no doubt the letter by Colonel Phayre in which he meant the secret and confidential information, but that letter crossed Dr Gray's letter Well, then, I think the further investigation of Dr Gray supports most conclusively his examination of the sediment that was sent to him by Dr Seward from the tumbler Dr Gray not being able to detect in the sediment any other substance, writes to say, "You threw the contents of the tumbler on the verandah outside your office, is there any trace of that left on the verandah? Colonel Phayre at once goes, and in his presence marks are found on the spot where he had thrown the sherbet He scrapes up a portion of the chunnam covered up by these marks, and sends them to Bombay to Dr Gray and Dr Gray finds in these scrapings precisely what he had found in the parcel first sent to him I think, therefore, there can be no doubt whatever that diamond dust and arsenic were introduced into Colonel Phayre's sherbet on that day The Commission will find in Exhibit I, the letter in which these scrapings were sent It is now five minutes past four o'clock, and I have come to a point at which I think it will be convenient to stop

The Court then adjourned

NINETEENTH DAY

BARODA MARCH 18

At the sitting of the Court, to day the Advocate General resumed his address He said In the observations I addressed to the Commission yesterday I endeavoured to show and I think I established the first two charges in the Notification of the Viceroy had been made

out—namely, that the Gaekwar had communicated for improper purposes with the servants of the Residency, and had given them bribes through Yeshwantrao and Salim My learned friend had admitted that Yeshwantrao, Salim and Damodur Punt were persons proper to be entrusted with the commission of the crime charged under the third and fourth heads of charge and I think I had shown that on the 9th of November an attempt to poison Colonel Phayre was made, the deleterious articles placed in his glass of sherbet being arsenic and diamond dust I think I may here refer to one point in the case which has always appeared to me to be a small one, and that is, it appears to me clear in the evidence that no other ingredients but arsenic and diamond dust was introduced into Colonel Phayre's sherbet on this morning It will be in the recollection of the Commission that a suggestion was thrown out as it appears on information given to Colonel Phayre by Ehow Poonekur who received it from one Bulwantrao, that it was suspected that a third ingredient copper, had been introduced into the sherbet But a scientific investigation of the sediment discovered in the tumbler has shown conclusively that no trace of copper could be found by analysis My learned friend dwelt on the fact that among the symptoms described by Colonel Phayre as proceeding from the administration of poison to him, was the experiencing of a metallic taste in his mouth Now my learned friend also established by Dr Gray's evidence that if any person took any salt of copper he would feel the taste immediately Colonel Phayre has shown that it was not for half an hour after he took the sherbet that he tasted the copper Had there been copper in the sherbet it is plain Colonel Phayre would have experienced the metallic taste at once The evidence on that point is clearly given by Colonel Phayre at pages 48 and 49 of the short-hand writers notes (Reads) It is clear from that there was not such a metallic taste produced by Colonel Phayre's drinking the sherbet as would have been produced had there been a preparation of copper put in with the other poisons Colonel Phayre experienced the taste afterwards some time after his attention was called to the other symptoms produced by his drinking of the sherbet That a metallic taste in the mouth is a symptom frequently, or at least sometimes, experienced by persons suffering from metallic poisoning is shown by Dr Gray's evidence at page 68 of the notes (Reads *Bombay Gazette report*) That answer is not very correctly taken down, but what Dr Gray conveyed was that he had known persons suffering from arsenical poisoning complain of a metallic taste being one of their symptoms I think the whole of the evidence therefore is against the suggestion that there was copper introduced into Colonel Phayre's sherbet Then there is another point which I think I may here refer to, and that is as to the quantity of arsenic found Dr Gray states that in the two packets submitted to him, the one the sediment from the tumbler the other the scrapings from the verandah, he found $2\frac{1}{2}$ grains Dr Seward found in a portion of the sediment from the tumbler between 1 and 2 grains His evidence on that point is on page 61 We have therefore between two and three grains of arsenic discovered by chemical analysis in so much of the sediment as was recovered How much more there may have been in

the portion of the sherbet thrown away it is impossible to say, but at all events in the two packets that were obtained from the contents of the tumbler we find more than enough to constitute a fatal dose being, as Dr Gray said, $2\frac{1}{4}$ grains of arsenic. Another small point to which I may refer in regard to this part of the case is that it is shown perfectly clearly by Colonel Phayre's evidence that from the time he put down the glass, after taking one or two sips of the sherbet until the time when he handed over the remains of the sherbet together with the sediment to Dr Seward, no one had any opportunity or tampering with the glass of approaching it or putting anything into it. Colonel Phayre's evidence or that point is at page 52, of the notes (Reads) So if Colonel Phayre is to be believed it is clear the poison, by whomsoever put into the tumbler, was put in before Colonel Phayre returned from his walk and before he took a sip or two from the sherbet he found prepared for him. Now, the next point to which I would invite the attention of the Commission is this. Taking it to be established that arsenic and diamond were deposited by some one or other in Colonel Phayre's sherbet on the 9th November, what is the evidence as to the source from which these two articles were obtained? A vulgar poisoner or a poisoner who had not command of considerable means would not be likely to resort to diamond dust albeit he might be likely to resort to arsenic. And the possession of diamond dust would argue the possession of considerable wealth, as well as of an intention to employ no matter at what cost such means as he believed would be capable of effecting his object. Now upon the theories that have been put forward by my learned friend upon the theory either that Bhow Poonekur or those who were acting with him or Damodhur Punt and those acting with him, were the persons by whom this dose was sought to be administered, I think it is clearly inconsistent to find so expensive an article as diamond dust being resorted to. These suggestions are sufficiently improbable for other reasons to which I shall afterwards call the attention of the Commission. There would be no improbability in a person in the position of the Gaekwar employing diamond dust supposing him to have believed in its poisonous qualities. From his position he would be perfectly well able to procure either of these articles. He could procure arsenic, as indeed most people could in this country. I do not see myself that there is almost any difficulty in getting any quantity of arsenic that is required. We have heard recently of a man, without any apparent reason for it, buying in a shop 8 lbs of arsenic. In Baroda there was a greater difficulty. My learned friend brought out the fact that in Baroda arsenic could only be obtained, from the Fouzdar, upon the special order of the Maharajah himself, and Damodhur Puntas produced an order not from the Maharajah indeed nor as my learned friend somewhat inaccurately said bearing any endorsement by the Maharajah, though it does bear an endorsement in which the Maharajah's name appears by which the officer in charge of the Fouzdar was directed to give arsenic for a sick horse. That order is Exhibit Z, and is at page 112 of the short-hand notes, and the date of it is the

4th October 1874. Now Damodhur Trimbuck says that that order was written by him at the direction of the Maharajah. In the endorsement which was made by the Fouzdar upon that document we find that the name of the Maharajah is introduced. The signature is I think Gunputrao Bulwunt, and the order is addressed to Dattai, who says no arsenic was issued from the Fouzdar on that order. He says also that there would have been no difficulty in furnishing arsenic upon that document, had the person in whose favour it was drawn out come and applied for it. But Damodhur Trimbuck shows clearly why it was the arsenic was not supplied on that order. He says that Hormusjee Ardasir Wadia, the Fouzdar, refused to issue arsenic upon it till he had communicated with the Maharajah. Mr Hormusjee is a gentleman of high position and reputation. He arrived at Baroda at the end of the last week, he is now sitting at the table, and he has not been called on behalf of the defence to deny the statement of Damodhur Trimbuck made with regard to his intervention being the reason the arsenic was not supplied. I think, therefore, that Damodhur Punt may be taken to be most materially corroborated upon this point of the Maharajah having given an order for the obtaining of arsenic from the Fouzdar by the document to which I have referred. I would call the attention of the Commission to this, that the endorsement which is, not the endorsement of the Maharajah, but simply the endorsement of one of the officers of the Fouzdar department, is in these terms (Reads the endorsement). Now my learned friend was somewhat misled when he stated that the Gaekwar had endorsed this order. It is not so. There is a mere endorsement in which the Gaekwar's name is mentioned. But when my learned friend says that the obvious answer the Gaekwar would make, to any objection being stated to him on the part of Hormusjee to deliver out arsenic upon the order in question, would be, why, all the arsenic in the Fouzdar is mine, go and get it! When my learned friend puts that argument it would be a perfectly good one if it could be shown that the arsenic mentioned in that order was required for medicine for a horse. But it does not apply, supposing the case put forward by the witness is true that the arsenic was not obtained for the purpose of applying medicine to a horse but to attempt to poison Colonel Phayre. I can understand the Maharajah having no objection whatever to putting his name to a paper which was merely to warrant an order for arsenic for medicine for a horse. But he might well hesitate to put his name to a document authorizing the purchase of arsenic required for a widely different purpose, and tell Damodhur Punt to go and get it elsewhere. Then, again as to obtaining the diamond dust, my learned friend, no doubt that diamond dust would be an article at the command of His Highness, sought to show that had diamond dust been required for the purpose of poisoning Colonel Phayre nothing could have been easier than for him to have supplied some diamonds out of his stores. Now it is no doubt true as stated by Nanjee Vittal, that diamonds were kept in the jewel department at the palace in considerable quantities the jewellers work was always going on, and at the period to which these trans-

actions refer, a scabbard and hilt of a sword were being ornamented with diamonds. But I think it will occur to the members of the Commission that when in a Native Court diamonds were being used for the purpose of ornamentation a very strict account would be required of the manner in which the stores were applied. For their own protection the workmen would be desirous that such an account should be kept, and if a stone was taken away they would desire, as a safeguard to them selves, that it should be entered in the account. Again, it does not follow because a scabbard and hilt were being ornamented that diamond chips of the small size and quality that could have been used on this occasion would be turned to account. It may be very well to take small chips and turn them to one account or another, but it would be a different thing to take stones of larger size and use them for so unwise a purpose. But even according to the evidence of Futtichund whom my learned friend put forward as a thoroughly trustworthy and credible witness, as a witness whose mistakes and errors were on the same footing as the mistakes and errors of Colonel Phayre, at all events Hemachund & Futtichund, whom my learned friend put on the same level of presumable veracity as an officer in Colonel Phayre's position, he says was asked, at about the time of the Dussera, to bring small diamonds to the palace, and that he and other jewellers did so bring small diamonds to the palace. Albeit he says the diamonds he then submitted for approval were returned to him. We have it then, on the evidence of this witness, that diamonds were required for some purpose at the time Damodhur Punt says he obtained them for some purpose or another we have it that these diamonds were required. That they were purchased, that they were retained is proved not only by Damodhur Punt himself, but also by Nanjee Vitul, the head man in the jewel department, and by Atmaran Ragoonath, one of the principal clerks employed there. Whatever Damodhur may say in other matters he is perfectly correct, according to Hemachund, in this statement, that diamond chips were required at the time of the Dussera, that is the 20th October. The only way the diamond chips so required at the palace can be disposed of on the part of the defence is by the evidence of Hemachund, who swears they were returned to him. As to the value of that evidence I shall have something to say hereafter. We, therefore, have at all events the possession of the two deleterious ingredients found in the sherbet by persons in the service of the Maharajah at about the time Rowjee and Nursoo say the packets were delivered to them shown by evidence which I think cannot be contraverted. And as I am upon this part of my proposition I may, as conveniently here as at any other part of my argument, refer to the case of the Borah Nooroodeen from whom Damodhur Punt says the arsenic was obtained, and who, my learned friend says, has not been called. My learned friend is quite entitled to the benefit of any inference he may draw from that circumstance. There was nothing to prevent his being called by my learned friend himself, if he wished to contradict Damodhur Punt on this point. In a certain view of the cross examination by my learned friend I might have been placed under the necessity of putting

Nooroodeen into the box. No such necessity occurred. And I hear my learned friend Mr Branson makes a suggestion on the point, and I will meet it. He says Nooroodeen was an enemy of the Gaekwar. I do not know how that is proved. It is said a Borah named Nooroodeen was before the Commission, but it is not shown that his complaint was not then redressed. This much is certain that enemy or no enemy the matter did not arise at the cross-examination, and Damodhur Trimble's statement on this point remains entirely uncontradicted. The attorneys for the defence have had full access to Nooroodeen and to everybody whom they wished to see called in regard to this case. No doubt they satisfied themselves as to whether it was desirable to call Nooroodeen and others, and the result is that no witnesses have been called, and the Commission will of course draw such conclusions as it thinks just from that fact. Now, my Lord, the next point to which I would refer, having shown that there was in point of fact an administration of arsenic to Colonel Phayre on this day, having shown that at all events the evidence points to the possession by servants of His Highness under Her Highness's directions, of these two articles at the time we say they were obtained by order of His Highness. It will be in the recollection of the Commission that the evidence shows that Rowjee was the person who receiving certain packets from Salim, deposited the contents of one of these packets in Colonel Phayre's glass on the 9th November. It is not suggested anyone else did it. My learned friend, fertile in suggestions, though he has shown himself in the course of this case, did not suggest that any other hand than that of Rowjee was employed for the purpose of putting the arsenic and diamond dust into the tumbler, and therefore we may take it as a fact that his was the hand by which it was placed in Colonel Phayre's sherbet. Now, my Lord, comes a very important class of considerations to which I pray the attention of the Commission. Whose object could it be to make this attempt upon Colonel Phayre's life? Who could be interested in administering poison to him? Fourth classes of witnesses have been suggested as being likely to be concerned in the attempt, and the first class is the Residency servants. Now my learned friend made that suggestion only to answer it. He said they could have no object in giving poison to a master who was a good master and against whom it is not shown they had any cause of complaint. I will adopt my learned friend's own admission that the servants were not concocters of this offence for any personal reasons of their own. Then that next class who is suggested, would be likely to engage in an attempt of this kind were Bhow Poonekur and those acting with him. He called him, on what grounds I fail to discover, after a careful perusal of the evidence, he called him the Gaekwar's bitterest enemy. He said he was the man who had Colonel Phayre entirely under his control that he was a spy, and that, in all human probability he controlled all the actions of Colonel Phayre. My Lord the evidence shows, and Bhow Poonekur was examined in this case as well as Colonel Phayre in regard to this point that Bhow Poonekur is at all events in Colonel Phayre's opinion, and no evidence to the contrary has been pro-

duced, a perfectly honourable and trustworthy man. He has lived in Baroda the greater part of his life, he has held various appointments to not one of which anything discreditable could be attached. At present he is an agent to Mr Hope, the Collector of Surat, in regard to a ward of the British Government named Mir Zulfukar Ali. This young gentleman has considerable estates in the Baroda territory, and Bhow Poonekur, it appears, received such confidence that he has been employed by Mr Hope to look after those estates. He came with a letter of introduction to Colonel Phayre from Mr Hope, and Mr Hope is a man who would not give a letter of introduction unless he thought the bearer was worthy of it. And he would not employ a man unless he could trust him. Bhow Poonekur is employed by him not only is he trusted by Mr Hope but by many of the Sirdars and sircars in the Baroda territory. He has the management of their affairs as well as of those of the son of Mir Jaffir Ali. He lives in Baroda, and has lived here for a great portion of his life. His actions are open to inspection, and not one single thing has been alleged against him, except that in the discharge of his duties he found it necessary, in Colonel Meade's Commission, to bring forward four cases on behalf of his clients. I cannot see anything in that to warrant the statement that he is the Gaekwar's bitterest enemy. No evidence has been brought forward except that he brought forth four claims on behalf of persons who employed him. As to his influence over Colonel Phayre that entirely rests upon the imagination of my learned friend. He put the question to Colonel Phayre "Was he not in the habit of seeing you, and Colonel Phayre answered, 'Yes, almost daily.' The visits were on business, and it is all assumption that they were made for any other purpose. It has been shown that he gave intimation of the khureeta of November, but there is nothing extraordinary in that. He naturally heard it from persons from the Durbar with which he was connected. Those Sirdars and sircars who employed him had access to the Durbar. They would know of any matter of importance that was discussed. And it is not surprising that he should inform Colonel Phayre that a khureeta was in course of preparation. He did not go so far as to say, because he did not know what was the nature of it. I cannot see that there was anything improper in this, as any khureeta would have to pass through the hands of the Resident. All official communications of any kind addressed either to the Government of Bombay or to the Government of India would be sent to the Residency accompanied by an English translation and the Resident would forward it to the Government to which it was addressed. These circumstances which are all that can be urged against Bhow Poonekur, are very slight foundations upon which my friend was entitled to build his sweeping assertion that he was the Gaekwar's bitterest enemy, that he controlled Colonel Phayre's actions and that he was Colonel Phayre's spy. Hard words these, no doubt, but they really do not produce much effect. And I think the Commission would prefer to form their opinion about that, and not accept my learned friend's harsh and unwarranted judgment of him. But having regard to the relations between Colonel Phayre and Bhow Poonekur, as described by the evidence

even taking my friend's judgment of him, does it not occur to him that it would be indeed strange that they should desire to see the man, who is entirely in their own hands, the puppet the strings of which they desire to pull, removed or killed. It would be to the interest of Bhow Poonekur and his friends to keep him alive and maintain him at Baroda, rather than to see him removed or laid in his grave. So far the truly wild suggestion that Bhow Poonekur only wished a sham attempt to be made, so that he might appear to rescue him from the danger he was supposed to be in. If that were so it is strange that such an enormous quantity of poison, almost double, if not more than double the fatal dose, was put in the glass, and that Bhow Poonekur instead of rushing on the scene and snatching away the poisoned cup, does not present himself till after breakfast, after the sediment had been given to Dr Seward, and does not mention a word of it until Colonel Phayre mentions it himself. I think the suggestion that Bhow Poonekur had anything to do with this crime is one which the Commission will dismiss from their minds. Then we come to a suggestion which is not put forward as anything but a suggestion, but put forward with great force nevertheless several times during the address of my learned friend. It was this, that Damodhur Punt was the man who wished to poison Colonel Phayre. His argument upon this point rested entirely upon a delusive statement, viz., that Damodhur Punt had been guilty of gross frauds, that he knew Colonel Phayre was sifting matters, and it was expected that he would overhaul Damodhur Punt's accounts, and that to prevent that he determined to try and poison him. Now I do not know upon what information my friend proceeded when he said that Colonel Phayre was about, or was likely to overhaul his accounts. It does not appear in the evidence that he entertained any such idea. On the contrary, it must be known to four of the members of the Commission, and perfectly apparent to the other two, that the overhauling of the khangee accounts was entirely beyond the province and entirely beyond the power of the Resident. There is nothing in the duties imposed upon him which would authorize him to investigate the private accounts of the Maharajah. The accounts of Damodhur Punt related entirely to these private matters. Damodhur Punt had nothing to fear from Colonel Phayre's investigation if he was engaged in any, which it was not shewn that he was. If he was engaged in investigating any accounts they would be the public accounts between the British Government and the ruler of Baroda, not the khangee accounts of the Maharajah. There is nothing to show that Colonel Phayre had anything to do even with an investigation of state accounts at the time these transactions occurred. Moreover, it is an entire assumption to say that Damodhur Punt had been guilty of fraud and embezzlement, none is traced to him. No doubt there is plenty of ground for the idea that he was capable of it. The man who would lend himself to a murder, would lend himself to a fraud. No such fraud has been pointed out. The accounts put forward show nothing of the kind, and though my learned friend made a point that there was not a single piece of writing in the hand of the

Maharajah to justify the expenditure, it should not be forgotten that he could not be expected to have such authority, as he told us that the Maharajah was not in the habit of signing these papers, and it would be consistent with the knowledge of the Commission that it would not be expected that the Maharajah should sign. Damodhur Punt had no fear of an investigation of his accounts, which were kept in the five places which he describes in re-examination. In regard to the transactions which are attacked as fraud and embezzlement, he had the fullest vouchers. Your Lordship will remember the form of the yards introduced. First of all there is the memorandum stating for what the sum of money is to be expended. Then follows the endorsement of Damodhar Punt stating that the permission of the Gaekwar has been obtained. Thirdly, there are some person's receipt, the person to whom the money was paid. Damodhur Punt had in these yards the best vouchers for him. He had the receipt of the person to whom the money was paid, and when he spoke of the five places he referred to the various books in which the transactions were recorded, and by which it was easy to show whether the money was paid in the way it was stated to be or not. There was first the daily account, the *say mal*, there is the monthly account, the *thalibund* and there is the yearly account, the *joorlibund*. And the sum of money paid would have to be traced through all these places. According to the native system of keeping books, in order to hide traces of a fraud, the whole of the books would have to be falsified, and the whole of the departments bribed. It may indeed be that the servants of His Highness were not of that high and honourable character which men in their position ought to be. But it is somewhat hard, as my learned friend has suggested, that the whole lot were tainted with vice, and that there was not one honest man amongst them. I think, therefore, that this notion of embezzlement exists only in my learned friend's imagination, and that Damodhur Punt's statements are corroborated by the documents produced. I think I am right that there was no danger or fear of the overhauling of his accounts, and therefore my friend's theory falls to the ground. He had no acquaintance with the Resident at all. Although he went with the Maharajah in his carriage, he always got out at the dhurumsalla, and was picked up on the return journey. He had no intercourse with him though the Maharajah introduced him to Sir Lewis Pelly soon after his arrival. I do not think, therefore, that he wished to get rid of the Resident except that he was obnoxious to his master and his master wished it. That theory, therefore, will not hold cold water any more than the theory of Bhow Poonekut. Then, my Lord, we come to the last person mentioned, whose interest it might be to get rid of Colonel Phayre, I mean the Maharajah himself. My learned friend said that, in opening this case for the Commission, I had not said anything with regard to the motive which His Highness might have for wishing to poison Colonel Phayre. My learned friend expressed his opinion, and it was perfectly right, that that omission was not inadvertent. I did not in stating the effect of the evidence in the first instance, go into the question

of motive. I was not sent here to conduct a prosecution. I was sent here to conduct an enquiry—to lay before this Commission certain evidence for the Commission to judge whether there was any ground for the charge against His Highness. If the evidence be true that evidence would disclose in the acts of the Maharajah material from which the Commission can form a clear opinion as to the motives by which he was animated. And I think the evidence has conclusively shown that strong and powerful motives existed in the mind of the Maharajah for desiring to get rid of Colonel Phayre. Apart from the evidence of the witnesses concerned in these transactions, my learned friend has referred to documents which I think establish in the clearest manner how eager he was in his desire to get rid of Colonel Phayre. And upon this matter I need scarcely do more than refer to the khureeta of the 2nd November 1874, put in by my learned friend and numbered 1. In that khureeta His Highness describes Colonel Phayre as his persecutor, his prosecutor, with a determined strong will, and he says that he should now be made to sit in judgment upon him is simply unfair. It is pretty clear, therefore, that although His Highness in this document does not say that he has any personal enmity to Colonel Phayre, yet he had the greatest objection to his remaining here as Resident and considered that it was unfair to him. It is difficult in a case of this kind to distinguish between a political and personal objection. In the plea which has been put forward on behalf of His Highness, he states the matter in these words, — 'I never had, nor have I now, any personal enmity towards Colonel Phayre. It is true, that I and my ministers were convinced, that owing to the position taken up by Colonel Phayre during his residency, it would be impossible satisfactorily to carry out the reforms I had instituted, and was endeavouring to complete in deference to the authoritative advice conveyed to me in the khureeta of the 25th July 1874 consequent upon the report of the Commission of 1873.' When Colonel Phayre was in the witness-box not a single word was put to him as indeed no question could be put to him, as to whether he had hampered or interfered with advice or anything else with the reforms which were going on, and although I see the three of the gentlemen mentioned in the plea, Messrs. Dadabhai Nowrojee, Bala Mungesh Wagle, and Hormusjee Ardaseer Wadia in the Court, I have not seen one of them in the witness-box to state that they were thwarted in their attempts at reforming the State. I can only assume that there is no foundation whatever for such a statement. His Highness goes on to say, "This conviction was shared by all my ministers and was strengthened by our knowledge of the severe censure which had been passed on Colonel Phayre by the Bombay Government. The removal of Colonel Phayre on the 25th November 1874 shows that our judgment was not erroneous." His Highness does not condescend to state when that severe censure, by which I presume he alludes to that mutilated resolution which had come into his hand—or where or from what source he had obtained it, or how it was that his attention had been directed to it. Colonel Phayre has told us that the

document would not be communicated to a native prince in the ordinary course of business His Highness had nothing to do with the state of Upper Scinde, and this document would not be sent to him, as it reflected upon the appointment by the Government of Bombay, the very same Government by which this resolution was passed You have not been told how it came into the possession and cognizance of His Highness It is not said whether it was in the possession of His Highness when the khureeta was written, or whether it has come into his possession since the commencement of these proceedings and the mutilated form in which it has been produced Colonel Phayre was asked if he did not know that this document had been shown to Sir Lewis Pelly by Mr Dadabhoy Nowrojee, but when Sir Lewis Pelly was cross examined he was not asked a word upon the subject, nor has Mr Dadabhoy Nowrojee been put into the box It may be that this excerpt had come into the hands of Mr Dadabhoy Nowrojee and from him to His Highness As to that I can only form a conjecture, but certainly we are not told whether it was before or after the khureeta of Nov 2nd The resolution can only be important from that point of view If it was obtained before the khureeta it certainly does afford confirmation of the charges to which I referred yesterday It shows His Highness was getting improper information not, it is true, from the Residency servants, but from officers of the Government other than the Residency servants And if that be so, it affords strong confirmation of the evidence of Ameen, the ayah, Rowjee havildar and others, that they conveyed information, not mere gossip, but of State papers of importance But, however, this may be, and we can only form an idea as to whether this document reached His Highness before the former khureeta, which has been described by my learned friend, as an admirably well composed one It is the ignorance we are in a regard to the date this document was received that we are unable to say whether they were aware of the existence of the resolution of May 1872 We are thrown back upon this consideration that what ever may have been the opinion of Colonel Phayre in 1872 the Gaekwar and his advisers, had they possessed the sagacity for which they are credited, must have known that although Colonel Phayre had received what in this country is sometimes called a very severe wagging yet that the confidence of the Government had not in the slightest degree been shaken and he was appointed by the same Government which had actually passed the resolution of which a mutilated copy was supplied my learned friend to an office of greater emoluments and responsibility to that he held in Upper Scinde

The Advocate General continued It must often happen to men to receive censure more or less strong, and expressed in more or less severe terms but in regard to this particular case, we have before us the history of the circumstances under which this censure was passed It was penned when Colonel Phayre was absent from India, at a time he had no opportunity of explaining the circumstances of the case On his return from England some months later, having heard of the resolution, he applied to Government for a copy of it, and at once furnished explanations, which had they been originally given, I venture to

say the resolution would not have been passed As it was obtained from the same Government complete exculpation, and the best proof of his entire exoneration is, that though on a question of policy it was not considered desirable that he should rejoin his appointment in Scinde he was posted to Palanpur, where he received the same pay as if he had proceeded to Scinde and on the first opportunity he was promoted to the distinguished post of British Resident at Baroda Now to a sagacious mind even without cognizance of the whole of the circumstances of the case the appointment of Colonel Phayre to Baroda would of itself have been proof positive that the censure was withdrawn If any proof were necessary that Colonel Phayre at the time of his employment at Baroda possessed in the fullest degree the confidence of Government, the accounts of what took place at Nawsaree furnishes it At Nawsaree His Highness's marriage took place Acting under the orders of the Government, Colonel Phayre was not present The Maharajah complained of this in a khureeta to the Government of India on the 9th May He complained of want of respect and insult to himself They would have been the time the Government could have expressed their want of confidence in Colonel Phayre What was the result? In spite of that complaint the Government of India fully approved of Colonel Phayre and informed the Gaekwar he had been acting strictly in conformity with their instructions Whatever effect therefore it might have it ought certainly to have had this that the censure had been withdrawn When the Maharajah made this complaint in May he was told that Colonel Phayre had done perfectly right, and he had therefore the fullest assurance of Government that Colonel Phayre would be upheld by Government at Baroda Let me direct the attention of the Commission to an important date It was in the month of May the Maharajah was married, and on the 16th October a son was born to that marriage It follows that the mother not having been recognised by the British Government, the son could hardly be recognised Now it was just about this date—the 16th October—that we find the servants of the Maharajah complaining that the Sahib was practising great *lum* This shows pretty clearly how the mind of His Highness was working He attributed it to Colonel Phayre that his marriage was not recognised, and he would also attribute to him that his son would not be recognised He would therefore, have the strongest desire to have the removal of the R sident to whom he ascribed the non recognition of the mother and the subsequent non recognition of the son That date—the 16th October—stands out prominently in this case, and furnishes a key to the whole of the conduct of His Highness Now, my Lord, with this idea in his mind, the conduct of the Gaekwar is perfectly comprehensible It is tolerably clear that whatever the desire of His Highness for reform might be, Damodhar Punt would not be the person to whom he would apply in that respect He would rely in that respect upon Mr Dadabhoy Nowrojee, while in other matters he would turn to his private secretary, and it is nothing remarkable that with the assistance of Mr. Dadabhoy Nowrojee he should be writing well-penned khureetas,

and at the same time he was being led by the hand of Damodhur Punt. There is nothing inconsistent in that. In point of fact we find that at the very time he was complaining of the Sahib's practising *zoolum*, he was instructing Dadabhoj Nowrojee to prepare the khureeta of the 2nd November. It is certain, and this is significant, that the Gaekwar did not expect much advantage from that khureeta, whatever advantage he may have got from other khureetas, your Lordship will remember that in regard to the khureeta of the 2nd November, besides the general complaint of Colonel Phayre, two particular instances in which his interferences are represented as entirely objectionable and unnecessary. The questions are in regard to some Sirdars and in reference to some cultivators. Colonel Phayre was asked by me whether the statements in regard to these two charges were true, and he said they were entirely untrue. It might have been easy to disprove that statement if it were possible to disprove it all. We have Mr. Dadabhoj Nowrojee here. He had the means of establishing the statements in that khureeta, but he has not been called, nor did my friend cross-examine Colonel Phayre on the subject. Now, my Lord, that the Gaekwar did not much believe in the effect of this khureeta is clear from the conversation between him and Colonel Phayre after it had been despatched [Passage from Colonel Phayre's evidence read]. We thus find that within three days after the khureeta was written the Gaekwar disavowed all responsibility for it. It is pretty clear, therefore, that he did not attach much importance to it, and did not expect much fruit to come of it. That he was right in that is shown by the fact that the Government, though practically complying in his request by removing Colonel Phayre, deemed it unnecessary to give their reasons for changing the Resident. I say then that the statement that the Maharajah was relying upon these khureetas to get the removal of Colonel Phayre is entirely unsupported and inconsistent with the evidence. His Highness may have thought it was desirable to have two strings to his bow, that Mr. Dadabhoj Nowrojee should work in a straightforward and honest way, and that Damodhur Punt should work in an opposite way. But to say that he was relying upon that khureeta to effect the removal of Colonel Phayre is to say that which is not warranted by the evidence. So far then as motive it concerned, I think the Commission will agree there was a strong motive on the part of the Gaekwar to effect the removal of Colonel Phayre. He knew this also, that progress report was being sent by Colonel Phayre, in which the steps taken in the progress of reform would be explained and canvassed. It strikes me therefore that the khureeta was intended to do away with this progress report, rather than that it was expected or intended to be a successful attempt to effect the removal of Colonel Phayre. I say therefore that if motive is to be sought otherwise than from the facts proved, we have from the suggestion of the defence itself ample proof of such motive, and I may now refer to the conduct of His Highness as explaining what I have just put before the Commission Monday the 9th November, was one of the days on which His Highness usually visited Colonel Phayre. It will be remembered he made ceremonial visits to the Residency every Monday and

Thursday. Whether His Highness knew before reaching the Residency that an attempt had been made and failed does not conclusively appear on the evidence. It is certain, however, he knew of it as he was driving back from the Residency. When we take into consideration, too, the hurried ride of Salim immediately after the note had been despatched as witnessed by Dr. Seward, it strikes me that Salim not merely went to Rowjee's quarters in the camp, but that his ride to the city was not without its purpose. That he went to Rowjee's quarters is shown by the evidence of Damodhur Punt, and that he went in the direction of the city is perfectly clear from the evidence of the conservancy peon and the peon entrusted with the letter to Dr. Seward. He knew that Dr. Seward had had this letter sent to him by Colonel Phayre about the time that Colonel Phayre had thrown away the greater part of the sherbet from his glass. It was not till after he had thrown the greater part of the sherbet away, that he noticed the dark sediment, and the dark fluid trickling down the glass. He thereupon wrote to Dr. Seward giving the note to Rowjee, who was waiting outside the office as usual. He had seen doubtless what had taken place inside. He gave the note to Mahomed, who was intercepted on the way by Salim, who gave him a rupee to get some biscuits. That salim took this ride that is beyond dispute. Salim took this ride somewhere about eight o'clock, or between eight and nine. It was before eight that he was seen by Dr. Seward. Colonel Phayre came in at 7 o'clock, and it would perhaps be about 7.30 when he threw the sherbet away, and a little after that when he sent the note. This fixes the time at which Salim took this ride. Where he went to in the city it is impossible to say, what he went for it is not difficult to divine. It was very early in the morning. He was quite in time to inform the Maharajah as to what was going on, and he galloped off first to Rowjee's quarters and then to the city. He had ample time to communicate that something was up, and to tell His Highness all events that Dr. Seward had been sent for. This he could tell him before he paid his visit to the Residency. Having been able to find no evidence as to where Salim went when he went into the city, I only put it that it was highly probable that information had been conveyed to the Maharajah before he made that visit on the morning of Monday the 9th. If this is so, we can see nothing wonderful that he preserved his equanimity on that occasion. My friend has said that he did not move a muscle of his face. Well, he had had ample time to compose his face. It is quite true that Colonel Phayre in his evidence before the Commission said that he thought he had asked His Highness about his health, and thereupon a certain conversation in regard to his health occurred that in fact he had led the conversation to this point, and my learned friend made something of that point. But in the statement which Colonel Phayre made on the 16th November, when the matter was fresh in his memory, he said that it was the Gaekwar who lead the conversation on the matter of his health. (The Advocate General here read a portion of Colonel Phayre's statement showing this.) Now it seems to me that so far as this matter is concerned Colonel Phayre is far more likely to be accurate in his statement of the 16th November, just after the circumstance, when the facts,

were fresh in his memory, than when he told it here after the lapse of some months. But however that may be this fact certainly remains, that the conversation turned upon Colonel Phayre's health upon this morning which was well calculated to elicit from him some description of his state of health. At all events, this is certain, that on his drive home the Maharajah knew all about it. In the evidence of Damodhur Punt we read "As I was driving back with the Maharajah he said 'There is a noise or report at the Residency' I asked 'Why, what for?' The Maharajah thereupon said 'Nursoo was in the habit of coming every day. He did not come to day, and Rowjee made haste and put it'." I said "What was the cause of the haste?" The Maharajah said "Nursoo was in the habit of sitting outside and whistled when any one came. Nursoo was not outside on guard for the purpose of whistling. That is the cause of the noise. I had some further conversation with the Maharajah. He said 'Salim ran to Rowjee's house. He went there for the purpose of taking the packets and throwing them where the old woman was sitting making bread.' Rowjee sent to his own house because he was not quite sure that Salim would or would not throw away the packets. The Maharajah also said "I do not know whether he threw away the packets or not. The Maharajah added, "This is a bad affair. It is perfectly clear also if Damodhur Punt is speaking the truth that the Maharajah knew that the attempt had been made before he visited the Residency. On the same day, later on in the day we find him conversing on the subject with Nana Sahib Kanvukler and others in the palace. I do not think the conversation I have just read is one that Damodhur Punt would have invented. It is certainly not of the sort one of the intelligent police my friend has spoken of, would put into his mouth. I think there is strong internal evidence that it was a conversation which actually did take place, and has been faithfully, or sufficiently faithfully reported to the Commission. It is a conversation he would have noticed for his own sake as well as his master's. That the other took place may also be accepted as true. If not, Nana Sahib Kanvukler might have been called by my friend. He has not done so, and as no evidence to the contrary has been adduced, and he might have done so and it must therefore be accepted as true. At all events, leaving that aside for the moment Damodhur Punt's statement shows clearly that His Highness on this day knew that an attempt had been made to poison Colonel Phayre and had failed. We have also this important circumstance to consider. It was notorious in the camp that an attempt had been made, and it must have been notorious in the city. Now, supposing His Highness knew nothing of this transaction before the 9th November, the natural thing for him to have done would have been to have got into his carriage, to have gone to the Residency, and congratulated Colonel Phayre on his escape. It does not seem to me possible that if the Maharajah was entirely innocent he would have acted as he did. She does nothing till Thursday, the day of his usual visit, and then speaks to Colonel Phayre about it amongst other things which are of little importance. He does not make any official communication until two days after his visit, and then he says he had heard of the attempt from Colonel Phayre—the

particulars of which he does not say—he does not say whether he has heard of it for the first time or not, and under all the circumstances I think it must be taken as true as Damodhur Punt says, that he was kept pretty well informed of everything that took place. Even upon the suggestion that Salim and Yeshwantrao and the others merely took gossip to His Highness they would have been certain to communicate to him such an important occurrence. In this conduct of His Highness in not visiting the Resident until the Thursday, and postponing all official notice of the attempt until the Saturday, I think I see a strong testimony indicative of His Highness's guilt. Damodhur Punt to whose evidence I shall refer more particularly afterwards, has described to us how it was from time to time, the Gaekwar was kept informed of what was going on at the Residency, how Rowjee was released, taken up again, and all the rest of it. Nothing transpired to cause him any anxiety until Mr Souter arrived. It was then we find him going through the revulsion of feelings in regard to Salim and Yeshwantrao as he had done in the case of Rowjee, and cautioned them on no account to betray him. No doubt His Highness had the fullest opportunity of making himself acquainted with the proceedings which had been taken to discover the authors of this attempt. On the 23rd December he was informed that he himself was implicated. From then until the middle of January he remained upon the Gadee. It is then we find him giving instructions to Damodhur Punt to cause all entries, all records likely to throw light on the subject, to disappear. It is then we find the clumsy attempt made to erase the name of Salim from the yad, and one of the karkoons tearing up a yad in relation to the purchase of diamonds. My learned friend asked Damodhur Punt why he did not destroy the entries altogether, but Damodhur Punt's answer was a natural one. He said he did not do so because the particulars were kept in five places, and he would not only have to make away with the yad, but with the whole system of accounts from the yad to the annual account of which he spoke. A yad disappearing from the duster would be of no use unless the various entries which referred to the subject were all destroyed. Unless that were the case all traces of the transactions could not be obliterated. No doubt pouring ink over the entries was a very clumsy way of doing the thing, so clumsy indeed that I cannot for one moment imagine it to be the work of the police. Even clumsy as it was, however, it would have been successful as far as the statement of Damodhur Punt it would have been impossible to follow it up. Until he gave the clue the accounts were as a sealed book to those who were investigating the case. I say, therefore we have ample motive to connect the Gaekwar and show that he was a party to the crime. This brings me to a portion of the evidence on which my learned friend has so ably and so eloquently commented. He says the witnesses who were acknowledged accomplices should not be believed and he has given special reasons why they should not. I propose to take those witnesses one after the other and to point out the fallacy of my friend's reasoning. Minute criticism might be carried so far as to destroy their evidence altogether. I think your Lordship will bear me out when I

say that no ordinary native witness will be found to give his evidence in such a way but that he might have given it more truthfully. They have a loose way of talking, particularly in regard to dates, and particularly in regard to details generally, and it is one of the most difficult, as it is one of the most important duties a court of justice in India has to perform to separate the wheat from the chaff rather than to ascertain from a minute analysis whether or not they are speaking the truth. I apprehend that none of those witnesses with the exception of Damodhur Punt can be considered educated persons at all. The ayah, the two puttawallas and the others occupy a low rank in the social scale. Under these circumstances it is not surprising to find them, though substantially speaking the truth, yet differing in regard to matters which European witnesses trained to a severer method of thought would not be led into. Take for instance the date of one of the transactions. It is a date my friend referred to yesterday, and I will therefore take it as a sample of the business in the way three witnesses speak as to dates. It will be familiar to the Commission how difficult it is to fix a date after an occurrence. They may remember the day of the week and so fix it, or it may be at the time of some native festival and then it is fixed; or they may fix it by something in their own lives. When they speak of transactions they generally say it is two or four days after, or five or seven days, or fifteen or twenty days. They always allow themselves some sort of margin. It is unfortunate they do so, but this want of accuracy does not in general weigh with judges in this country as showing witnesses to be unworthy of credit. Now this third visit of the ayah before the 9th November is an instance of this. She says it was about twenty days or a month before she heard about the poison being given, which would make it about the 20th October. Her husband Abdoolah fixes it by the month, it was about the 15th or 18th of the month Ramzan; and Shaik Dawood fixes it at three or four days before the Dewallee. Here we have an instance of what I have just mentioned, but I hardly think that will be considered sufficient to reject the evidence of these three witnesses. Well, you have there a slight divergence, but not necessarily untruth; on the contrary, that very divergence appears to me to be a test of truth in this way that it disproves the idea of this witness having been tutored by the police. The police must have more than human ingenuity if they tutored these three persons to mention these three different dates. Another observation I may make in regard to the general character of some of these witnesses, and particularly those witnesses who were attached to the servants of the Residency. I quite agree with my learned friend that it was not very likely the intention of these servants in the first instance to take away Colonel Phayre's life. That is the opinion I have always entertained since I first read the statements of the witnesses in this case. And it is very natural that they should not be desirous of putting to death the master they served, when they no doubt considered that they could render the service required by the Maharajah in a less dangerous and equally effectual way. This accounts for what Rowjee stated to the Maharajah when the matter of poison was first mentioned. He asked if this poison would take imme-

diate effect, and was told it would take effect in two or three months. This is also a perfect explanation of what Rowjee did when he got the powders and was told to mix them together. He having an idea very likely that the white powder was arsenic, puts only a pinch of it into a third part of the diamond dust. It would very likely occur to him if Colonel Phayre is murdered at once there will be a great disturbance and I will come to grief; but if we give only enough of this poison to make him ill and go home, I will have done what the Maharajah wants, and will get my guerdon all the same. Of course on this point I am referring not merely to his not putting the whole of the arsenic in, but also to the contents of the bottle which was given to him which contained the physician's stuff, as my learned friend termed it. He, finding that a few drops exuding from the bottle produced those unpleasant blisters on his stomach, thought that if a little did this, it would not be safe for him to put the whole into Colonel Phayre's bath, and he accordingly threw away the contents of the bottle. But not only may this consideration well be borne in mind by the members of the Commission in forming their view of the position of these witnesses, but it must be remembered in regard to their readiness to accede to the Maharajah's desire that they should act as his instruments in poisoning Colonel Phayre. When the proposition was made to them in the first instance, it was not until they were completely in the Maharajah's power. It was not until he had made them furnish him with information and paid them bribes that he spoke to them of administering poison, or that they entertained the proposition. We see it in the case of all of them. It is first of all, "give me information, take money from me," two proceedings to which a colour might easily be given on the part of the Maharajah which would be quite sufficient to ruin the men. It would have been easy for the Maharajah just to send down to Colonel Phayre when Rowjee or Nursoo brought him a paper, saying, "Look here, here is one of your servants come to me with this paper which he has taken out of your office." It would have been easy for any one on the part of the Maharajah to say, "These men have been applying to me for money for the purpose of communicating information; I have paid to them the money in order that there may be no doubt about it, and I now send them to you that the money may be found in their possession." Therefore they were by this time completely in the power of the Maharajah, and it is to be borne in mind that if they speak the truth, the method of their employment is singularly judicious. The ayah and those working with her do not appear to have known directly anything of the fact that Rowjee and Nursoo were working in their direction on the part of the Maharajah. In the same way as I have already suggested, His Highness appears to have been working through Dadabhooy for the public view of these transactions, so we find him working not merely through Damodhur Punt in regard to the secret conspiracy, but we find him working in regard to Rowjee and Nursoo as one class, the ayah and others in regard to another class, and Damodhur Punt, strange to say, though he is at the head of the whole thing, is not brought into contact with any of the

servants They are all kept distinct The strings of this conspiracy, though when the machinery is worked, it all operates in the same direction, are kept perfectly distinct in the first instance, and that accounts, certainly I think it may be taken to account, for what otherwise is a somewhat unaccountable circumstance in this case Colonel Phayre says on the 6th and 7th of November, he suffered from the same symptoms as on the 9th Howjee says that on the 6th and 7th he put nothing into the sin roet It may perfectly well be that though Rowjee had not put anything into the sherbet some other of the Residency servants in the service of the Maharajah had done so My learned friend was fain to suggest that Colonel Phayre's assassination was simulated by having heard or read Howjee's statement, but that is not so Rowjee's statement is perfectly inconsistent with Colonel Phayre having formed any idea in regard to the transactions of the 6th and 7th From what he had said or in his statement to Mr Souter he distinctly says that after the two powders had been given to him and he had mixed them together and put them into the sherbet two or three times when no one was about to see him that as a few days elapsed without anything happening, the Maharajah sent for him and the jemedar again, it is therefore clear that nothing Howjee said before Mr Souter or before this Commission could suggest to Colonel Phayre that his sherbet was drugged on the 6th and 7th It may well be considering the wholesale system of bribery that seems to have been adopted with the Residency servants that some other of the servants had drugged the sherbet in those days Now my Lord, my learned friend taking the witness *seriatim*, asked the Court not to believe them and first of all I will refer to what he said about the ayah Ameena With regard to her it is perfectly clear from Mr Souter's evidence at page 10 of the short hand notes that Mr Souter saw the ayah before any of the police had had an interview with her The ayah, it will be remembered, was seriously ill at the time and her recollection of what took place when she was first examined cannot be expected to be as accurate as the recollection of Mr Souter (Reads Mr Souter's evidence on the point) Therefore it would appear to be perfectly clear that when attention was first directed to the fact of the ayah being driven by the cart man to the havalee on some day in the month of Ramzan, and Mr Souter proceeded to the ayah's quarters, he found her in a state of health that did not admit of her being particularly examined, and he was obliged to remain satisfied with the statement that she had been to the Maharajah's palace and received money from him Two days after, her illness having increased, so that she had to be removed to the hospital, Mr Souter went and took her statement, marked D 2 Now it is perfectly clear that the police, supposing them to have invented what the ayah said on the 18th, must have had almost superhuman powers They have got to deal with a woman who is suffering from high fever, who could not be in a position to profit by their instructions, and they would have, moreover, to make her understand the details of a tale about which they themselves knew nothing For at that time

the only information the police had was that on this particular occasion of which Dawood the cart man speaks he had taken the avah to the havalee Then the ayah's evidence gave a clue to much that was subsequently discovered She was able to state the persons who had accompanied her, and these witnesses being examined were found to corroborate her on every point But, says my learned friend that the ayah's reference to posh n wi in other thought, and he would have the Commission suppose that that other thought was suggested by the police Now to consider the value of that suggestion we have to consider the position the ayah was in She was still very ill and the policeman under whose guard she was not one of the heads of police, but an ordinary sepoy who must be taken not to be a person capable of instructing the ayah on a point of this magnitude Dr Seward goes to see the ayah and my learned friend made a point in regard to the visit which I was surprised to hear him make It seems to me perfectly natural that Dr Seward should go to see the ayah, not merely because he had been and was before but because she was the servant of a friend of his I cannot see anything unnatural or improper in his paying that visit When he gets there his sees the ayah and does no more than any other physician would do He notices her condition he does not think her physical condition is sufficient to account for her state and it occurs to him, as it would occur to any medical man that she has something on her mind The woman is being spoken to desires to complete her statement to Mr Souter that there was no connivance between Mr Souter and Dr Seward is clear from this that when Mr Souter went to her he so little of what she was going to say, that he took no writing materials with him When he comes the woman makes the statement which was recorded by Mr Souter on the following day in which he speaks of the Maharajah speaking in a grand d'yeux about the person Now my learned friend asked the Commission to compare what Mr Souter took down from her statement on this occasion with what she had said before the Commission I ask the Commission to do the same and I think the Commission will come to the conclusion that the two statements substantially agree In words in the statement must be taken to be rather the words of Mr Souter than those of the ayah Mr Souter does not profess to have literally translated them But he has given in his own language what he understood her to say My learned friend said that he did not think at all likely an ayah would use such expressions as some those contained in the statement No doubt "throw out a feeler" is not an expression an avah would be likely to use, but it is an expression that is perfectly comprehensible, and conveys the idea intended to convey When the ayah is examined before the Commission she says substantially the same thing She says some *choochea* was to be used and you find the Maharajah speaking to her as I have suggested he would speak upon such a matter (Reads the evidence) Now, asking a native at all events in the class to which this woman belongs, about *muntras*, charms, and so on will be perfectly well understood, I apprehend, by every one of the Commission as something like " throwing out a

"feeler." Before this Commission she was of course examined at much greater length and much more particularly than she was examined before Mr Souter, but she tells the same story, and her statement is amply corroborated. Another point with regard to her evidence my learned friend dwelt upon was with regard to her statement that she had been threatened by the police. Now I have no doubt, though it is some time ago, the circumstances under which that expression was used by her will be clearly in the recollection of the members of the Commission. The evidence is at page 1 of the notes (Reads) Now what she said with regard to the answer translated threatening was *dham kura*, or something of that sort, but she went on at once to say what she understood by threat (Reads evidence). When her attention is called to the question of threat, she says at once No one threatened me. And then afterwards when asked what made her say she was threatened, she says "I do not say so I think, therefore that in the circumstances of the taking of the ayah's evidence, there is everything to support its accuracy and there is nothing whatever to detract from its value in the minds of the Commission. As to the threats they appear to have been of the mildest character. The question is put to her as to whether the Maharajah had spoken on a certain topic but as to ill usage nothing of the kind is mentioned by her. Now the next witness, and one who is of course a much more important one than the ayah, to whose evidence I propose to direct my observations, is Rowjee. One circumstance connected with this witness is, that though a peon employed at the Residency on small wages, he had been spending large sums of money in the bazaar. The police made enquiries and found there was found at all events for the story that he had been spending money and, accordingly, on the 22nd of December, he was arrested. What he says in regard to the circumstances of his arrest and the circumstances under which he made his statement, will be found at page 80 of the short hand notes (Reads). That is the statement as to the circumstances under which he came to give his evidence to Mr Souter, and Mr Souter in his evidence confirmed that Your Lordship will remember what Sir Lewis Pelly said about Rowjee's statement. He was examined as to that, and he tells us how he and Mr Souter, considering that there was no prospect of discovering any clue as to who made the attempt to poison Colonel Phayre, were going to Bombay on the 23rd and were arranging to spend their Christmas holidays there, that is very good proof that so far as Ammeena's statement was concerned much importance was not attached to it by itself. Sir Lewis Pelly and Mr Souter had arranged to go to Bombay when Rowjee made his statement, and Sir Lewis Pelly said he would like to see the man during the day and judge for himself. He sees the man on that day, and hears his statement, and he says the statement he then made, and which was before anything had been taken down, was substantially just the same as before the Commission. We have here Rowjee's statement—a statement perfectly voluntarily made, and under the most natural circumstances in the world. Mr Souter is obliged to have him arrested, as it is known he spent money in the bazaar. He is

arrested and kept in the Residency compound under surveillance of the police along with the other servants, and they say to him, "We have told all, and you had better do so also,"—a perfectly good reason to operate on the mind of Rowjee. He therefore sends for a police officer and asks to be taken to the Khan Sahib, the Khan Sahib immediately takes him to Mr Souter, and he makes a statement before Sir Lewis Pelly and Mr Souter. The statement is reduced to writing, not on the day it was apparently made, but in one of the following days. Now Rowjee's statement made to Sir Lewis Pelly and Mr Souter gravely implicated Nursoo, his superior officer, and the jemadar was arrested the next morning as soon as he came to the Residency. That was the 23rd. I shall by and bye speak of the opportunities of communication which Rowjee and Nursoo had with each other. Nursoo being apprehended on the 23rd, makes his statement, and makes it at a time when it was perfectly impossible that he could have been coached up as to what Rowjee had said because Rowjee's statement had not then been taken in writing. Not only then was there no intercommunication between Nursoo and Rowjee, except that short interview at which Rowjee said "I have told everything up to my neck, but there was no one in a position to state the details of Rowjee's confession to Nursoo, inasmuch as Rowjee's confession had not then been reduced to writing. Mr Souter and Sir Lewis Pelly and the native police who had heard Rowjee's statement on the previous day might have had some general idea as to what the statement amounted to but could scarcely have carried in their minds. Nevertheless, as the Commission will perceive, it was impossible from the circumstances of the case and apart from the question of intercommunication between the witnesses themselves for the police to communicate to the one what the other had said in the detail in which they must have communicated it in order to render it practicable for the one to repeat substantially what the other had stated. Nursoo does not look like a clever man, and supposing the police to have had the villainy to repeat and the cleverness to remember what Rowjee said is it to be supposed for a moment that a man with Nursoo's smallness of intellect could have so aptly learned what it is said the others taught him. The only explanation is, I think, that both men are speaking substantially the truth. Now, there were three main points in which my learned friend impeached Rowjee's story, and the first of these points to which I would refer—for it appears to me to be one of the most important—is his story with regard to Pedro. Now Rowjee boldly charges Pedro with having accompanied him to the hawalee to see the Maharajah. Pedro as stoutly denies that he did so. My learned friend says Pedro is introduced as a truthful witness, and must be believed. Well, I do not know that my learned friend is entitled to say he was introduced as a truthful witness. He is introduced on much the same footing as all the witnesses introduced by me. These witnesses were not introduced by me, not one of them, as being special witnesses of truth, but rather as persons who had made certain statements on which the Government of India had considered it desirable an enquiry should be held, and I was not vouching either for their respectability

or veracity. But however that may be, Pedro has no doubt the advantage of coming before the Commission as an old servant of Colonel Phayre's. He had been in his service some twenty five years, and so far I must admit he must be taken to be a respectable man. He denies in cross examination that there was any truth in Rowjee's story about him. He denied that he had ever been to the Maharajah but it is to be observed that his denial begins as soon as admission would be dangerous to himself. I do not think there is anything to be made from the fact of his being examined before Mr Edginton in Bombay. Mr Edginton deserves fully the commendation bestowed on him by my learned friend, but I do not think there is any reason to suggest that Pedro gave his evidence before Mr Edginton under any greater advantage than if he had given it before Mr Souter. He was taken before Mr Edginton at the directions of Mr Souter and by the Khan Sahib. His denial of the knowledge of these transactions, however as I have stated begins as soon as the admission would be fatal to him. As soon as the admission would involve him he ceases to admit. By a denial of this kind he not only saves his character with his master, but he saves himself from being charged with being an accomplice in these transactions. But it occurs to me as a curious thing that long before the attempt to murder Colonel Phayre had been discovered, Pedro should have been in men's mouths as a person in the pay of the Maharajah, and one who under directions of the Maharajah had undertaken to poison Colonel Phayre. It is not conclusive but it is suggestive when you find a man's name mentioned by servants who were themselves in the pay of the Maharajah, when you find them in their conversation one with another speaking about Pedro being in the Maharajah's pay and favour, and being in such pay and favour because he has consented to serve poison to Colonel Phayre, when you find he has associated in such conversation with Rowjee I think it merits consideration. And Pedro shows that Rowjee was cognizant of his dealings with the Maharajah, for he says on cross-examination that he told Rowjee of the present he had received from the Maharajah. Now, why should he have done that, unless there was some link between them. The evidence on this point is at page 30 (Reads). It seems to me to be a reasonable inference from this that Rowjee knew a great deal more of Pedro's connections with the Maharajah than Pedro was willing to admit. I think, also, the Commission must have noticed that Pedro gave his evidence with considerable reluctance. He admits that Salim used to ask him to go to the Maharajah, and he declined to go, and he says—

The President Is there anything but the ayah's statement in the examination taken before Mr Souter about Pedro being the subject of conversation?

The Advocate General That is the only thing. And in her evidence given before the Commission it was brought out in cross examination, and your Lordship will find it is there referred to at page 7.

Mr Branson She first said it was Pedro and Rowjee who had told her, and she then turned round and said it was not so, it was Curreem and another man,

and Curreem was called and not asked a single question on the subject.

The Advocate General As to that the mistake was so palpably a mistake on the part of the interpreter that I wonder my learned friend has referred to it. As to whether Curreem knew anything about it, it would have been impossible for me to put the question in examination in chief, and the point was not alluded to by my learned friend, and therefore I had no opportunity of asking about it. But here is evidence connecting Pedro and Rowjee long before the attempt to poison Colonel Phayre was made. We have also to note the manner in which he gave his evidence. I will read a portion of his evidence (Reads). Now I submit, that as far as the case is concerned I do not wish to say anything against Pedro more than is necessary, he is not on his trial, and I merely wish to notice the evidence there is regarding him and his manner of giving his evidence, and I submit under the circumstances the Commission may well doubt whether Ledro was telling the whole truth before them, and whether there is not much probability in howjet's statement when he refers to Pedro as one of those in the employment of the Maharajah. If Ledro was not engaged to poison Colonel Phayre, it is strange why he received the money, and I think there is quite enough of evidence before the Commission to induce the Commission to say they are not satisfied with his evidence. Rowjee could have had no motive whatever to accuse Ledro, for it is not suggested they had any quarrel or enmity. But Rowjee in telling his story mentioned the connection of Pedro with these circumstances just as he mentioned the connection of Nursoo and others. It is now 2 o'clock and perhaps the Commission will adjourn.

The Court then rose for tiffin.

When the Court resumed its sitting after tiffin, the President said There seems to be considerable doubt on the notes whether Nursoo's statement was made on the 23rd. Sir Lewis Pelly's evidence shows that it was made on the 24th.

The Advocate General The statement to Mr. Souter was made on the 23rd.

The President According to Mr. Souter his statement was made when Sir Lewis Pelly was present.

The Advocate General The 24th would be Thursday, and that was the day on which the Maharajah made his visit, therefore Mr Souter is probably wrong and Sir Lewis Pelly right. It was made on the day the Maharajah made his usual visit. But even taking it to be the 24th, that would not interfere with the argument I presented to the Commission, because it was not till the 24th that Rowjee's statement was reduced to writing. Therefore, if it was the 24th there would be just the same observation that no one would have had an opportunity of becoming so acquainted with Rowjee's statement as to communicate it to Nursoo. Now, my Lord the next episode in the evidence of Rowjee on which my learned friend dwelt was the episode of the bottle, and there, I venture to think, my learned friend fell into an entire error. The evidence of Damodhar Punt in regard to this bottle was that having received from Goojab a large bottle containing the

physician's stuff, he poured in a portion of the contents of the larger bottle into the smaller bottle of his own, and this bottle was not an otto of rose bottle, but a bottle in which otto was kept. I will call the attention of the Commission to the exact expression that was used. The expression that Damodhur used was, that it was a bottle in which otto had been kept. It is at page 118 (Reads). My learned friend from that jumped to the conclusion that this was one of those bottles which we have all seen, and which come from Turkey or Persia, which are generally ornamented with gold leaf, and have a very small perforation running down the centre of a solid mass of glass into which one or two drops of otto are poured—a bottle which could not possibly be used for the purpose for which it was used by the witness. It was a bottle which had contained otto of roses, the passage of which I was thinking will be found at page 121 (Reads). The word *attar* was translated otto of roses, but the *attar* of this country is not the pure otto of roses which is contained in the small bottles which my learned friend had in his mind; (ie) An otto of roses' bottle proper is a bottle which contains only one or two drops and could not possibly be used by Rowjee for the purpose of shaking up one of the powders given him before putting it into the shirt. Moreover, at the foot of page 147 Rowjee gives a description of the bottle (It ads the official report). Now Damodhur Punt describes the bottle as being the length of from the top of his forefinger to the middle of his hand. The bottle he used containing the physician's stuff was the length of his forefinger.

Sergeant Ballantine Half a finger

The Advocate General In official report says "the bottle was the length of this pointing to his finger"

Sergeant Ballantine I think you will find he described the first bottle as being the length of his finger and the smaller bottle as being the length of half his finger. The *IMPROVISED INDIA* report says the bottle was the length of this pointing to the second joint of the forefinger.

Mr Richard Meade I have on my notes that the witness said the smaller bottle was the length of half his finger, pointing to the second joint of his forefinger.

The President and Mr Melville stated that this was also confirmed by their notes.

The Advocate General Well, it is a matter of very little consequence. Take it then that it was the length of the first two joints of the witness's forefinger. It is perfectly certain that this small vial could not be such a bottle as my learned friend had in contemplation when speaking about it. It was not a bottle which contained only a small perforation in the glass, but a bottle into which it was possible to pour a not inconsiderable portion of what the physician had prepared. There is no doubt whatever it was a small bottle, but there is no doubt also it was not a bottle of the kind my learned friend described. It was not a bottle of the kind my learned friend probably purchased in his passage through Egypt, but obviously a round bottle capable of containing a considerable portion of the liquid in the larger bottle. Now from a bottle of that kind not sealed with seal-

ing wax, not fastened with any cork, but simply confined with a wisp of cotton covered with a little beeswax, there certainly could be no difficulty in assuming that something would exude if it was placed in the position in which Rowjee says he placed it. That some scar or wound existed on the portion of his stomach which comes into immediate contact with the string of his drawers, was proved by Dr Gray. Rowjee says that having tied the bottle in the way I have described, he began his walk home-wards. The effect of walking would be to make the bottle *susy* with his body, and, being imperfectly fastened, there is nothing more likely than that some of the liquid might exude. Now Dr Gray has said, and there cannot be any doubt on the subject that arsenic is a caustic. All the works of authority on the subject agree that arsenic could produce such an effect on the skin as was spoken to by Dr Gray and was spoken to by Rowjee. Arsenic in suspension, as Dr Gray stated would if it escaped from a bottle of this kind and found lodgment on the skin be calculated to produce a blister. A good deal was said about its being a boil and not a blister, but that was really one of the many infirmities of interpretation of which we have had to complain. If the word *blister* had been used throughout by the interpreter as it was used in the first instance I think my learned friend's argument would have been a good deal disposed of. If you look at page 78 of the notes you will find the passage to which I refer (Reads). Now if there is one thing that is perfectly within the knowledge of every one in this Court, I think it is that if a man gets a burn he does not get a boil but a blister. Dr Gray examined the man, found marks and gave his opinion on the subject to the Court. There can be no doubt, therefore, that so far as the question of the boil is concerned, Rowjee's statement is fully corroborated. Now, my Lord at the time Dr Gray examined the person of Rowjee and found these signs Damodhur Punt had not been examined, and he gave a description of the contents of the bottle which my learned friend read from the statement made by Damodhur Punt before Mr Richey on the 29th January 1874. And if that statement be true it proved this that not only was there arsenic in the composition which the physician had made, but—

Sergeant Ballantine There was no arsenic in the bottle!

The Advocate General I will read the whole of the statement made before Mr Richey (reads). I think upon that statement I have a right to say that the evidence is that arsenic was one of the component parts of this horrible stuff the physician is alleged to have made, and taking it as Dr Gray has told us, that arsenic itself is a caustic, that arsenic in suspension in water would, if the water in which it was suspended found a lodgment on the skin cause a blister, when we find it is connected with other articles certainly of an irritant character. It is perfectly clear there was quite enough in this bottle to cause the effect which Rowjee says was caused on him. What those *makharia* (blisters flies) were I cannot profess to say. Mr Nowrojee calls them large ants, and they were translated before Mr Richey as blister flies. They probably bear some relative to the

Spanish flies, Cantharides, and would be likely to produce a blister such as Rowjee described. I have already referred to the fact of Rowjee's not desiring to give any thing to Colonel Phayre which would produce an immediate effect, and this story is a strong confirmation of that theory of my learned friend with which I entertain, agree. Rowjee found a slight exudation from this bottle produced the effect he has described, and thought if I put it, as I have been directed, into Colonel Phayre's bath, the effect on him may be expected to be corresponding to the additional quantity used, and there will be an enquiry and I will get into trouble. Therefore, instead of throwing the contents in to the bath he threw them away. No doubt he told Nursoo that he had put it in, but that is not strange, as Nursoo might have reported him to the Maharajah for not having done as he had told him. Now I think there can be no doubt that Nursoo and Rowjee took advantage of the boil on Colonel Phayre's forehead to say they had put arsenic into the plaster he was accustomed to apply to it. No doubt that boil would be a circumstance noticed by Rowjee and Nursoo, and it would be worked upon by them in order to satisfy the Maharajah that they had been obeying his orders. Damodhur Punt mentions Bowjee having told the Maharajah about this, and it is very difficult indeed to conceive how Damodhur Punt could have invented the story as to Colonel Phayre having felt a burning pain and torn off the blister, unless he had received it from the persons from whom he says he did receive it. As regards the bottle and boil, therefore, I think Rowjee's evidence, so far as from being invalidated by the arguments of my learned friend, comes out of the ordeal perfectly satisfactory. The date of the giving of the bottle appears to be fixed by the time of the boil, and the purpose for which the bottle was given is illustrated by what Damodhur Punt says of the report made of Rowjee through Salim to the Maharajah as to what he had done with regard to the boil. And unless it is to be supposed that the police were in the confidence of Dr Seward and Colonel Phayre in regard to the treatment of the boil, it is difficult to understand how they could have suggested to Damodhur Punt the story he told before Mr Richey and also before the Commission. Then, my Lord, another episode in regard to Rowjee upon which my learned friend dwelt very strongly was the episode of the belt. Now, no doubt, that was a subject in regard to which there was an opening for my learned friend, and an opening of which he could take full advantage only by introducing into the conspiracy, as an active agent, Mr Souter. I have already referred to that part of my learned friend's argument and shown what reasons there are, *a priori*, for believing it to be perfectly impossible that Mr Souter could have taken that part in the transaction which my learned friend suggests. And when we look at the history of the theory as given in the evidence, I cannot forbear my surprise that he should have done so. Akbar Ali, an experienced officer, knowing that Rowjee had kept the powders which he had received from time to time in his belt, having heard that from Rowjee, says to Rowjee "What has become of your belt?" He naturally would wish to

look at the belt to see in what part of it the powders were contained, and whether, from the packets of powder, anything had escaped of which a trace could be found in the belt. To suppose that he, upon receiving this information from Rowjee, as to the receptacle in which the powders were contained all at once put a packet into the belt, is to suppose him guilty of an act of the most shameless infamy, a supposition for which the previous character of Akbar Ali affords no justification, and a supposition also, from the circumstances under which the examination of the belt occurred, is entirely inadmissible. What was there to make Akbar Ali believe that Mr Souter would go away and prepare for breakfast at the time the belt was seized? The Commission will remember how it all happened. Now, it cannot be supposed that the messenger who was sent to call Boodhu put the packet into the belt. It is suggested to be the work of Akbar Ali. The belt was sent for while Mr Souter is in the room. He hears the order given, and he probably and naturally supposing that there would not be much found in the belt, and as it was between 8 and 9 o'clock, goes into the adjoining room to prepare for breakfast. Mr Souter told my learned friend, just before he began his address, that there was no reason for his not remaining in the room, but that it was near breakfast time and he went to dress. His dressing room was immediately adjoining the present dining room at the Residency, where Mr Souter and his officers were then carrying on their enquiries. He had only to go under a chick and he was in the room. He went to dress and while he was dressing—which took some ten or fifteen minutes—the belt was brought in and the examination of it began. Akbar Ali examined the belt. He found what has been called the slide through which a sword or truncheon would be passed when worn. He found no packet, and he then asked Rowjee where he kept the powders. Rowjee immediately pointed to the secret pocket. Akbar Ali introduced his fingers till he came in contact with a substance. That substance proved to be paper. He opened the packet—he tore it open, and finds the papers disclosed. He at once called Mr. Souter, Mr Souter at once came and found the belt in the condition I have described. Mr. Souter took out the paper which he then found to contain not only arsenic, but arsenic of the same physical characteristics as that found in the powder in Colonel Phayre's tumbler. Now surely if there was nothing in the character of the police to protect them from the supposition that they put the packet there as they were suggested to have done, and if it had not been denied on oath by Akbar Ali as it has been denied, it is really giving them credit for a great deal of sagacity, not only that they should conceive the idea of putting the arsenic in the belt but they should have been shrewd enough to obtain arsenic of the same physical characteristics as that found in Colonel Phayre's tumbler. A policeman supposing him to be the abandoned wretch, my learned friend would have the Commission believe, would hardly be capable of such a transaction as that. I do not think my learned friend would admit that to be a likely thing to do. In fact it is so improbable as to render it perfectly incredible. It is much more

probable and is supported by the evidence, that it was a simple discovery arising out of the carelessness of one of the principal witnesses in this case. The belt was taken from him on the 9th November, and given into the possession after the 9th of Bhoodar. It is worn by him day by day, and when it is examined the packet is found, and I am sure the Commission will believe that Akbar Ali did no more than his duty in doing what he did. Abdool Ali and Gujanund Vittul were also there. They have both been examined by my learned friend and no questions were put to them upon the subject.

Sergeant Ballantine : You put no questions to them on the subject?

The Advocate General : No; it was no part of my case to clear them from an imputation which I had no idea would be made. I think, therefore, the Commission will come to the conclusion that the finding of this poison in the belt of Rowjee is strong confirmatory evidence of the truth of his story. My learned friend has referred to Rowjee's two statements as containing contradictions, especially because Rowjee mixed all the powders together. I think my theory shows there were no contradictions. My friend read Rowjee's statement, where he said he had received two powders from Nursoo and made them into three packets as directed. [The Advocate General read : "A few days after this the jemadar gave me two powders and told me that equal parts should be administered for two or three days, and in such qualities as to consume the whole in that time."] And as Rowjee said in his evidence that he did as he was directed, my learned friend argues that that is inconsistent with the finding of the poison in the belt. I think, however, that from what I have said, and on review of the whole evidence, and that he kept a portion of the powder back, the Commissioners will not consider the statements inconsistent with the general truth of Rowjee's statement. If, my Lord, this belt episode was a plant on the part of the police, then what they would have found in the belt would not have been pure arsenic, but arsenic and diamond dust. If this is a police plant surely the intelligent policeman who could at the same time have been guilty of a plant would not have put pure arsenic in the belt, but arsenic and diamond dust. He would certainly not have put in fine arsenic, for that surely would be one of the very contradictions upon which my friend relies, and upon which I rely as showing that this is not a police story but a real and genuine story. When this is taken out he does not say it was one of the three packets. He says it is one of the packets given me by Nursoo. The Commission will remember that Rowjee said he did not wish to poison his master, and so he took a pinch out of the white packet, putting it into the others, but that he did not put in the whole of it, but merely a pinch ; keeping the other back. That would account for the arsenic found in the belt. It was found there under natural circumstances, and I think that a careful review of the whole of the circumstances connected with the finding of the powder in the belt of Rowjee will go far to show that Rowjee is speaking the truth on this point. When Rowjee was examined before Colonel Phayre on the 9th or 10th of November, he charged Fyzoo with being the person engaged in this attempt. No doubt

that was a base and false charge ; but he has given a reason which I have no doubt will be satisfactory to the Commission, in the judgment they form, though of course it does not improve the estimate of his moral character. Fyzoo was suspected by all the servants. The Commission will remember that Fyzoo was really in the pay of the Durbar. He had a son in His Highness's service. That son, however, was a child when he got the appointment, and at this time is only about sixteen years of age. The employment was practically means of making some payment to the father. It is also stated that Fyzoo was a man who had been previously charged with improper conduct, a man mixed in plots. It cannot be denied that he was therefore a kind of man whom the other servants to screen themselves would fix upon. He had himself been in the Maharajah's service, and that is a reason too, he would be fixed upon. It was of course a gross iniquity for Rowjee to say he suspected him, but it was a device which he had good reason to suppose would be successful, and indeed it was to divert suspicion from himself. I do not defend his conduct. God forbid that I should, but it certainly was a natural thing for him to do. These are the points which my learned friend says should not be believed. I think I have given good reason for saying that they are consistent with his statement. I do not say he was a man of high character, but that does not invalidate the truth of his statement. They are consistent with the account he gives, and unless he is to be disbelieved altogether by the Commission, I fail to see how they can be kept from concluding that his statement is substantially true.

The Advocate General here called attention to the fact that it was four o'clock. He could not, he said, conclude that day without very much condensing his statement.

The President said that he ought not to do so, and that therefore it would be better to adjourn.

Sergeant Ballantine : I am sure my learned friend has not expended a single moment that was not necessary.

The Court then adjourned.

TWENTIETH DAY.

BARODA, MARCH 19.

On the Commission assembling yesterday, the President, addressing the Advocate General, said : His Highness the Maharajah of Scindia is unable to attend as also is Sir Dinkur Rao, who is too unwell to be present. They will both have a report of your address sent to them.

The Advocate General expressed his regret that the two Commissioners were obliged to be absent, but he was sure they would give due consideration to all that occurred. The learned gentleman then continued his speech in reply on the whole case as follows : Now, coming to the evidence of Nursoo, and in regard to that witness as well as in regard to the others, what cause has been shown why he should not be believed ? My learned friend says that Nursoo was an unnecessary witness ; that he was only put into the case to corroborate Rowjee, and that as far as any service

that he could have rendered to carry on the schemes with which he was entrusted he might have been left out altogether I do not agree with my learned friend in that view I think the Commission will see in considering the whole case that he was not an unnecessary witness but an indispensable person to be drawn into this conspiracy His assistance was necessary not only in regard to the poisoning affair but in regard to the other matters which form the subject of enquiry here He lived in the city His agency was of importance for the purpose of conveying those news letters which Rowjee was in the habit of sending from day to day It was a natural and very simple thing to take with the letters as he went home and to deliver these to the Maha rajah's agent There was another reason why his co-operation was necessary He was the head man of the havildars and was employed over Rowjee Had not his services been secured he would have been an uncomfortable spy over all that was going on He would have had his attention called to Rowjee's going into the office for the purpose of purloining papers He would indeed have been able to notice everything that was going on To secure him, therefore, was a most important object And when we remember what the Maharajah is reported to have said to Punt, he, at any rate, saw how necessary it was to secure him on their side His Highness, indeed, attributed the failure of the attempt at poisoning to the neglect of Nursoo You will remember that he it was who ought to have been on the watch, and to whistle if anybody was coming but that he was not at his post on Monday, the 4th It is very likely the Maharajah thought Rowjee had been found out in putting in the powder We see how necessary it was that Nursoo should watch in order that Rowjee might carry out with safety and impunity the task allotted to him Now it is certainly a fact that Nursoo was not present at the Residency when Rowjee put in the poison He did not come until afterwards he did not come until 8 o'clock, and it is no small corroboration of Damodhur Punt's story that that matter should be mentioned to the Maharajah and mentioned by him to Damodhur Punt as they were driving away from the Residency on that Monday morning It is one of the innumerable small proofs which show that this case is not one that has been concocted by the police who have been so harshly treated by my learned friend Now, my Lord, that was the principal ground upon which he was introduced into the conspiracy and not, as my friend said, to bolster up Rowjee The Commission could see what sort of a man he was An old servant, but not of very superior intelligence, he received his appointment as jemadar rather by seniority than any superiority He is certainly a most difficult student for the most astute teacher to manage My learned friend was very jocose about the episode of the well There seems to be considerable confusion about what he told us in regard to that well The account which he gives will be found on page 92 of the short hand writers' notes, and was as follows "After my statement had been taken down, I remember going one day into the garden at the Residency It was on the very day on which I had made the statement In the garden I fell into a well After a long service this happened, and I thought I

could not show my face to any man That was my fate I had taken my meal, and after finishing my meal I saw a number of persons coming near the well I saw my fellow servants all standing and I said after my long service this is my fate and I fell into the well I saw a number of people, my head turned, and I fell into the well" My learned friend made a great point that there was no attempt at self destruction on the part of Nursoo that it is idle to assume he fell in otherwise than accidentally To that suggestion of my learned friend, the best answer is an appeal to see the well for themselves, and then say whether such an accidental falling in as my friend suggests could have actually occurred My learned friend was not willing that Sir Lewis Pelly should state what he said when he saw Nursoo immediately after he was rescued from his fall into the well, but I think it would be impossible for any man seeing that well, seeing the manner in which it is constructed, and where it is placed to come to the conclusion that he could have accidentally fallen into it It must have been the result of design on his part, and that such a design did exist, is I think evident from his evidence when he says that a number of his fellow servants were standing by, and feeling the disgrace into which he had fallen he fell into the well He felt, I take it that he would rather die than face them in the future I think it is strong corroboration of the truth of his story The feelings under which an ordinary man placed in a similar position to that of Nursoo would be that and after he had told his story, and felt the disgrace it was better to destroy himself I think there was another episode which should lead us to believe that in what he told us in the witness box, he was the witness of truth No one could forget what occurred between the witness and Sir Dinkur Rao at the close of his evidence The man had made his statement, and there from the Bench, did Sir Dinkur Rao, a man not only respected for the position he holds here but by his character as expressed in his face but from his position as evinced by the caste to which he belongs put to Nursoo a set of searching questions or rather solemn abjurations as to whether he was speaking the truth It was one of the most urgent appeals that could be made by a man so venerable The test was a most severe one It was not only an abjuration it was almost an invitation to the witness to retract if he could what he had previously told us It was a solemn moment not only for him but for all who heard him And how was it answered Let me read the account (page 95 short-hand writers notes) —

Do you yourself believe that you are guilty? — It is my bad luck, I am also concerned in it It is my fate

If you are granted a pardon would you in the presence of God tell the truth? — It is not if I get a pardon, but I tell the truth whether the Sircar pardons or not They are my *ma bap* (father and mother)

Mr. Melville He says "If I were offered a pardon I would speak the truth, I am speaking the truth now"

The question Sir Dinkur Rao put was "Supposing he was offered a pardon would he make a more truthful statement than he has made here?"

The witness Besides this there is no other truth What is true I have said The Sircar is my father and mother They may hang me if they like

Sir Dinkur Rao You have served a person thirty-five years against whom you have been dishonest Now, if in the presence of God you will tell the truth tell it Do not be afraid Whatever is in your mind tell it without fear in the presence of God

The witness I have stated without fear what I had to state

The President (to the interpreter) Have you put it in that way, "In the presence of God?"

The witness In the presence of God I have stated what is true I have not stated an untruth It is scarcely possible to imagine a man in the class of life and the character of Nursoo exposed to severer ordeal than the one I have read And in the presence of God and that solemn abjuration to speak the truth after he had a prospect of pardon, he adhered to his story and spoke the truth, for I think it scarcely possible to be imagined by any one who listened to what I have just read that his evidence was not true Then my Lord, I come to the last of the four important witnesses whom my learned friend dealt with in his address to the Commission and that is Damodhur lunt He was, as my friend says, a witness of a different stamp to the others He was a man in the confidence of His Highness He held the most confidential post, a man could hold in his employment It is not suggested that there is any quarrel between Damodhur Punt and His Highness On the contrary it is perfectly clear that after the attempt he was higher in the favour of His Highness than ever for while it may be remembered that he never took him to see the Resident yet as soon as Sir Lewis Pelly arrived he took him there and introduced him as his private secretary There is therefore no interruption to that confidence by reason of the attempt to poison Colonel Phayre having been discovered It is not suggested that there has been since the period he was discovered anything to disturb the friendly relations which existed between the two It was not in the slightest degree interrupted Damodhur lunt was arrested the same day as his master and at the palace where he was in the discharge of his ordinary duties There can therefore be no reason why Damodhur Punt should invent a story to the detriment of his master There could be every reason why he should hold his tongue rather than invent a story because if he held his tongue, and the charges against his master were not proved, he would naturally have great expectations of receiving a large reward from a grateful master There was nothing whatever in any part of the evidence at the time of his arrest to implicate him in the attempt to poison Colonel Phayre

The Advocate General then argued that there were many strings being pulled by one hand, and it was quite consistent with his theory that the ayah and her friends Rowjee and his friends, and Damodhur Punt and his friends should all be working to the same end instructed by the same master, and yet know nothing of each other's movements At some length he analysed the evidence of Hemchund Futtu chund, repudiating the notion that the police had

altered his books, and still maintaining that he had sold the diamond chips to the Gaekwar He denounced him as a thoroughly unscrupulous witness, and pointed out that the Gaekwar, being his best customer, he had a strong motive to screen him as much as possible The learned gentleman also pointed out that the method of concealing the payments in Hemchund's accounts was such as to render detection almost impossible and the books, so far from vouching for the truth of Hemchund's story, absolutely proved the untruth of it The account at the palace was easily made to disappear as at the time the attempt to poison was discovered, the monthly accounts were not made up and there was only a loose yad The obliteration of some of the accounts could not have been the work of the police as they had no access to them before, the discovery was made

The Advocate General continued —

As I mentioned yesterday it is quite possible that there were many strings to be pulled but that they were all held in one hand and that the various persons were not aware that they were in the same employment Damodhur Punt has told us he knew nothing of the visits of Rowjee and Nursoo to the palace and the only time he saw them was at Now aree at the time of Jummabai's petition When he was arrested he was not put in confinement, but simply under a guard of the Gaekwar's own troops As far as Damodhur Punt was concerned there was nothing for him to fear nothing to implicate him nothing to show he had any concern in these transactions After remaining for some days under the guard of the Gaekwaree troops in the Sepnepatte he was removed and placed under a European guard D ubtless there were reasons for that step we can well imagine reas ns having nothing to do with the investigation of this case He was under this guard without any interference of the police until one day, he was brought to a tent in order that he might be present while certain papers belonging to his department were opened He was present at that investigation but he does not appear to have taken a very active part in opening out the documents, as they were unsealed Several clerks employed under him were there and were going through the investigation with the officers of police He was present when those four *roh khreeds* upon which the splashes of ink had been discovered, were found At all events, that may have set him thinking and led him to suppose that something would be discovered in regard to himself He is spoken to by one of the officers of Gujanand Vitthal and told it will be better for him that he should speak the truth He returned the very same evening to the European guard He remains there two days, apparently making up his mind, and then says, if he gets a pardon he will speak the truth It is promised him and he then makes a statement not to the police, Mr Souter not being in Baroda not before Gujanand Vitthal or Al bar Ali but before Sir Lewis Pelly himself, whose assistant, Mr Kichey records his deposition I apprehend these are considerations on the question as to whether he ought to be believed He has told us, and it has been corroborated by the police, who were asked about the matter that although he knew that Rowjee and Nursoo had been arrested and had made statements, he did not know about what they had stated That, I think may be taken as absolutely certain The statements they had made would be carefully guarded It cannot be supposed for a moment that these documents would be left about, so that people might become acquainted with their contents other than those who had a right to see them He made a statement which is in evidence before the Commission He does not implicate Rowjee and Nursoo in regard to their

visit^s to the palace but he does give evidence which most seriously implicates the Maharajah and he gives it in a way which cannot be the result of tutoring by the police. They could not have had the slightest hint on the matters he speaks about. With the wild supposition that it was a police conspiracy, would not the first thing that would occur to the police be to say to Dumudhur Punt that Nursoo and Rowjee were in the habit of going to the bazaar, entering by the back stairs, and having interviews with the Mahratja. You were about the police they would say and he would naturally answer "Yes I did see them, and I can speak to that. I can describe the whole affair and tell the whole thing from beginning to end." On the contrary, a remarkable characteristic of Dumudhur Punt is that, although he speaks most clearly upon his relations with the Mahratja, he makes no statement whatever about the matter except of once seeing Rowjee at Nowsaree with Lumbi Bhos^s petition. He also mentioned that he got Salim a packet to give to Rowjee. Nursoo he does not mention and the wali he does not mention. He does not mention even Rowjee having ever visited the police to his knowledge. He had heard that Rowjee used to write letters and send them to the police almost daily. He says also he was once told to give a packet to Salim for Rowjee, and he does so. It is the only occasion on which he mentions Rowjee's name. It is sought to discredit the evidence of Dumudhur Punt by the evidence of Hemchund Luttechund. Hemchund Luttechund had made a statement to Mr Souter which statement he had repeated to Sir Lewis Pelly. To both these officers he had declared that the statement was true, and he appended his signature to it. When he came into the witness-box, he was so eager to show that he had come to unmask all that he had said previously, that it was quite painful to notice the obvious purpose he was committing. In almost the same breath he says and un-says what he had to state. He begins by saying that he never took the Gaekwar any jewels, and then that he did, and that they were returned. He said first that he had received no money and then that he had [Advocate General read excerpt from the evidence and pointed out a series of similar contradictions]. In fact, in his eagerness to give this false testimony, he forgot that he might admit without danger to the Gaekwar. He first of all denied his signature and afterwards admitted it, and the consummation of all was when he stated he did not know Hindustani to rely upon a witness like this is, I apprehend utterly impossible. He does not admit, but absolutely says that the whole of his statement is false, and immediately afterwards says that a great portion of it is true. Now Hemchund is shown by his own book to have had very large dealings with His Highness not only in jewels but in loose precious stones, diamonds, and others. He appears to have had a good customer in the Gaekwar, probably his best, and he thereof determined to do him as much service as he could even at the risk of his conscience, and he did it in the clumsy way we have seen. Now it strikes me cer-

tainly that he had told Gujanand Vitthal, but more, and that when he was before Sir Lewis Pelly he did not turn him and say, "This has been forced from me by Namajeet Vitthal, and only a portion of it is true". If he had made such an appeal to Sir Lewis Pelly, it would have been listened to and enquiries have been made. I pass over the obvious falsehood that he knew nothing of Hindustani. You remember the innocent air when he asked what was Hindustani, the fact being that he gave his statement to Mr Souter in Hindustani, and also a part of his evidence. I pass over many minor contradictions en passant. The way in which he equivocated about his signature, which he at first said did not look like his, and afterwards admitted was his signature, and a variety of

other matters in his evidence all show him to be a man utterly unscrupulous and undesirous of discriminating between truth and falsehood. Apparently he did not recognize Mr Souter, though he was asked to look at him in court. A more important part of his story, viz., that referring to his book mark i. was made for him by the police. Here, again, one is called upon to express extreme surprise at the inconceivable stupidity of the police supposing my learned friend's theory is true. (An one imagining them so stupid and so ignorant as to make such entries in Hemchund's books as he says, Gujanand Vitthal caused him to write? These two entries, at the end of the book bear the date 7th or 8th November 1844. Now the evidence of Hemchund Luttechund is that the ornaments were taken by him and would be entered in an earlier period. The evidence to correspond would not be the 7th or 8th November but would be about the Dussehra or 20th October. Can we suppose that an intelligent officer like Gujanand Vitthal would write things in a book which were not in accordance with the evidence he was to give. I can understand I am making a false statement and a false entry corresponding to it but I cannot understand a man making a false statement and then a false entry to corroborate it, which does not correspond, and yet that is what my learned friend would have the Commission believe from Hemchund's story. Now the sixth page is known to have been tampered with by some one. It is a fraud of a very serious and comprehensive character. There were five pages, of six leaves each which were genuine which formed part of the original book. There was a sixth page, from which one leaf was missing, then there were two, the 7th and 8th, which according to the opinion of the expert, was added at a time subsequent to making the book. It is stated that on the fifth page was part of an entry in the same handwriting but in different ink. It is evident that the last page of the fifth page is the old portion, the first page of the sixth page is the new. My learned friend reminds me that I am not quite correct, is the portion of the entry on the sixth page is in the same but a different handwriting, to that portion of the entry which is on the last page of the fifth. However, it is not material to my argument as Hemchund used to get anybody who was passing to make entries in his book for him, and that might account for it. We have it that for the fifth page the book has been tampered with and that portion of it is entirely new paper, presumably in substitution of the old. And according to the statement of Hemchund before Mr Souter, it is actually in substitution of those taken away by himself when these affairs came out. Now the story is that the police did it. The Advocate General here read extracts from Hemchund's statement and the evidence in support. That statement which he made is certainly in accordance with the condition of his book, and not with that of the story he tells now. It is not pretended that the entries on the original page are not genuine. There is a missing page in the sixth page which he does not attempt to account for but besays the others are true. Then we come to the last, which, he says, he was obliged to write by Gujanand Vitthal. Now if his story is to hang together, as the whole of the sixth and seventh page have been subjected to the manipulation of Gujanand Vitthal. He says this is not so, but how can it be otherwise. It seems to me much more consistent that the original story told to Mr Souter is the true one, and that it was removed to conceal the original entries of diamonds at the time of the Dussehra. And to put it down, so that he might not be without record, he entered it to a servant at the palace, so that he could at any time show the delivery of the diamonds which were for the improper purpose attributed to them. It seems to me that if these missing pages could be found the missing entries would be found, and we should find them referring to the sale of the diamonds. Now my

learned friend, in referring to the evidence of this witness, urged it strongly as a reason for believin' him that the police had fabricated the entries, that the entries of hoondies was not mentioned in the statement he drew up. My learned friend evidently knew all about the transaction of the hoondies. Now this matter deserves some notice. They are entered in the book in June but they bear date the following month, July. The transactions were closed long before we come to the Dussera long before we come to the Dewalee, no doubt Hemchund had transactions with Shevachund Khusalchund the goldsmith at Poona, who, he said, had dealings with Nanjee Vitthal in regard to some ornaments. That transaction was closed by the payment of the hoondies but it became necessary in order to conceal these transactions in regard to the diamonds that the old name should be kept open though there were no transactions. The account is in the name of Shevachund Khusalchund and Nanjee Vitthal were kept open no doubt it was found convenient for the diamond transactions that the goldsmith's name should be continued. It was a man whose name would attract attention, and the hoondies, therefore, were entered to him, although there were no transactions in existence at the time. It is perfectly certain there were no transactions. Hemchund said so. Although the account is in the name of the Poona goldsmith the account was really that of Nanjee Vitthal. I hope I have made myself clear. The entry was for purchases concluded by payment of these hoondies as far as he was concerned, and being paid for it there was no further account in the books of transactions with Shevachund Khusalchund. The account was continued in his name in order to cover the diamond chips. It is important to consider in regard to these payments when they were made one for #2000 and the other for #750. The goldsmith had nothing to do with these arrangements, it was only for the convenience of Nanjee Vitthal, who was his brother in law. Now, when were these payments made? Why, one in December and one in January, long after the attempt to poison Colonel Phayre had been discovered long after the arrival of the Maharajah and his servants had been called to the necessity of not allowing any documentary evidence to exist which might implicate them in the purchase of diamonds. Again these payments were made by a karkoon in the *Dum nol mal* at the bazaar. It was paid for by public in my. My learned friend says I did not recall the goldsmith to ask him questions on this subject. I did not do so because it was shown on the face of Hemchund's books that the payment was so. There was no necessity to call him to prove a payment which was admitted. Hemchund also admits that the payment in his book was correct and that it was paid by the clerk in the *Dummamal*. Nanjee Vitthal was not asked a single question as to whether he had imbezzled these #2000. Then too, we have Damodhar Punt's statement how these #2000 were obtained. He shows the two *yads* that were prepared, one exhibiting a saving in the lighting account, and another exhibiting a receipt realized by the *yad* respecting some coins part of the murastra, and he says that that money was ordered to be appropriated for the payment of these diamond chips. The method of concealing the payments in Hemchund's books, I have already pointed out, was entered to the account of Khusalchund who had nothing whatever to do with it and entered to the account of Nanjee Vitthal which would certainly have served to render detection almost impossible, but for Hemchund's statement to Mr Souter because, these two sums are directed to be given in a form which will be perfectly appreciated by their Highnesses and Sir Dunkur Rao, if not by the three European members of the Commission though your Lordships will probably also have a clear idea on the subject. They are put down as to be paid for a feast to the Brahmins of the Swami Narayan Temple. But the priest of the Swami

Narayan Temple says no such payment was made, no such feast was given, and that on every occasion, when the Maharajah made payments for purposes of this kind, a receipt was given on the *yad*, and he identified a receipt given for such a purpose in the earlier part of the year. I think, therefore, that the books of Hemchund so far from vouching for the accuracy of this story absolutely prove the untruth of it, and the explanation given by Damodhar Punt and Nanjee Vitthal shows clearly what the transaction was and what were the ingenious means employed to conceal it. The entry in the accounts at the palace was easily made to disappear. It consisted merely of a *yad* at the time the attempt to poison Colonel Phayre was discovered. There was no receipt on the face of the *yad* because no payment had been paid. There would, therefore, be no entry of a payment in any of the ordinary books of the palace. It would not pass into the *ros lerd*, because there had been no payment, it would not pass into any of the other accounts for the same reason. There was only a *yad* and it was demanded back from Atmaram Rughnath, when it was only brought abroad that an attempt had been made to poison Colonel Phayre. Atmaram asked why he should give it back, and was, at once told that the jewels had been returned. That would, of course, be the excuse given by Nanjee. Atmaram not being cognizant of the transaction as Nanjee was. Atmaram's own opinion on the matter is shown by what he says that he does not even know whether they were returned or not. Then my Lord, we have these blotted daily cash accounts. I have already adverted to the circumstances under which they were discovered. The documents in question were sealed up at the palace on the day of the Maharajah's arrest. They were sealed up in the presence of Damodhar, to whose department they belonged, and no one had anything to do with them except the mere care of them, until they were brought down to the tent and there the seals were broken in the presence of Damodhar. Damodhar had not at that time made any confession, and it was not known he would make any statement, he was there merely as being the Gakkars officer to whom the accounts belonged. He is asked to be present to see that the seals are intact and that the documents belong to his department. In regard to these blotted accounts the Commission will bear in mind that upon one of them being discovered, Gupanund goes and tells Mr Souter that a document has been found so obliterated, Mr Souter goes and while he is there in the course of the examination, other three are found blotted in like manner. Now, it is certainly very remarkable that these documents should be discovered in the way I have just described, unless they really existed in that state at the time they were sealed up at the palace. They are not found by the police at all, but by the clerks in the department themselves, and they are not all discovered together, but one after another in the order in which they stood and are shown one after another to Mr Souter, and he puts his mark upon them. My learned friend suggests this was done by the police. Well, as I have already said, it was a very clumsy way of doing things and it seems to me much more probable, and consistent with what one would expect under the circumstances, that Atmaram having told one of the clerks to obliterate the name of Salim in the documents he poured the ink over them, and then, perhaps, Damodhar seeing how clumsy it was, and that it would rather lead to detection than otherwise, stopped the further obliteration of the entries in this manner. It may also have occurred to the clerks, after a time that it would not be of much use to obliterate these entries, as the entries would be found in the places. But why these entries were fixed upon to obliterate, appears to me to be perfectly clear. The obliterated daily cash accounts refer to the *yads* which are in evidence as N1, O1, P1, and Q1.

And the first of these relates to that payment of £1000 to Salim on the 8th June 1874, which I have already referred to as corresponding almost exactly to the time, when the payment of £400 was made by Salim to Nursoo and Rowjee. That therefore would be a very likely document for Damodhur Punt and those who were in his confidence in regard to the matter to select as one to obliterate. But there could be nothing to call the attention of the police to this particular entry, unless they were gifted with almost supernormal sagacity, because Damodhur Punt had not then spoken or made any statement, or pointed out the system of falsifying the entries in his department, and the police must have had certainly sagacity indeed if they could fix upon this document as one to obliterate. It seems to me, my Lord, that the only reasonable account that can be given of these obliterations is the account of Damodhur Punt, and that any other account is so far fetched and incredible as to be deserving of any serious attention. Now I have already referred to Hemchund's evidence as being evidence on the tree of it utterly untrustworthy and I think it must be perfectly clear to all who heard that evidence how it was that he came to give it. As I pointed out he was a man who had had extensive dealings with the Maharajah who in fact, must be taken to have been his best customer. He was a man living in the town in his own house, and therefore perfectly accessible to any injudicious friends of His Highness who thought it desirable he should alter the evidence he had given. It seems to me a matter of almost clear inference that he being capable of being worked upon was worked upon by some injudicious friends of His Highness. I have gone over the particular portions of the evidence of these four witnesses to which my learned friend referred as giving a cause why their evidence should not be credited and I think I have answered all my learned friend's arguments in regard to these witnesses. I propose now to make a few general observations regarding the evidence of these witnesses. I think it will perfectly clear that each one of these four material witnesses made his statement absolutely independently of any knowledge of what the others had said. The ayah made her statement certainly without any knowledge of what the others would say or were likely to say. She made her statement, in the first instance, to Mr Souter at a time when she was in hospital suffering from severe illness and unable to do more than give a general account of her having been to the palace three times, and having received money on different occasions from His Highness. Rowjee certainly made his statement without any knowledge of what Nursoo was going to say and under the risk most assuredly that Nursoo might contradict him. It is quite certain that Rowjee and Nursoo made their statements without any knowledge of what Damodhur Punt was going to say, because at the time they made their statement, the Maharajah was on the *gadee* and Damodhur Punt was his Private Secretary. Moreover neither of them had been brought into personal contact with Damodhur Punt in regard to this matter, and therefore could not be supposed to know that he knew anything about their concern in the transactions. Rowjee was arrested on the 22nd, and from the time of his arrest till the time of his making his statement, Nursoo was on duty at the *lakshmi* discharging his ordinary functions in attendance on Sir Lewis Pelly. Nursoo may have known that Rowjee had made a statement, but he could not possibly have known the details of that statement, as I have already pointed out, because the statement had not been reduced to writing and no one was in a position to have communicated it to him. He swears he had no communication with Rowjee from the time of Rowjee's arrest till after his own arrest and that after his own arrest he had one communication only with him, and to that communication I propose to call the attention of the Commission. Now Rowjee says at page 80 of the notes what that communica-

tion was. (Reads Rowjee's evidence) Nursoo describes this interview at somewhat greater length. His evidence is at page 91. (Reads) Akbar Ali was asked upon the point and his evidence is at page 106 (heads) Gujarat's evidence is at page 101 and is to the same effect. It is perfectly clear that after Nursoo had been so confronted with Rowjee he was taken before Mr Souter and Sir Lewis Pelly and made a statement which was afterwards taken down. Now, it is very important thing in regard to Nursoo's evidence that it was given in the way in which Sir Lewis Pelly has described. When he was brought before Sir Lewis Pelly and Sir Lewis Pelly was told that he was going to make a statement, Sir Lewis cautioned him that he would not be pardoned but, on the contrary, that he would be prosecuted and told him to reflect well before he made any statement. After that opportunity had been given, the man made his statement in the presence of Sir Lewis Pelly and Mr Souter, but Sir Lewis would not even then allow that evidence to be taken down still wishing to give Nursoo an opportunity of fully considering what he was about before that evidence was put in a form in which it could be used. And it is clear that every precaution was taken by Sir Lewis by having the man not in the hands of the police, but in his own command, having there time to consider and consider well the step he was taking. It is clear from this that Sir Lewis Pelly was determined that not only should Nursoo have every opportunity of considering what he was going to say but that everything should be prevented by means of which a confession could be forced. Moreover, it must be borne in mind that, though Rowjee was in charge of the police, Nursoo never was. He has been in charge of a military guard and was so till the time he gave his evidence before this Commission, and for about I know remember there still. If there could have been no communication therefore between the two persons is I think perfectly clear. If there had been such communication it would have been out of proof. But at all events, I think it will be admitted even by my learned friend as a proof of the *baitul fikr* of those who were concerned in this case that these men were kept apart in order that no communication between them might, as far as human means could be applied for the purpose, be prevented. Now, my learned friend said, and there is a certain amount of practical justice in the complaint, that it is harsh that Nursoo who was comparatively the least guilty of the witnesses, should be refused a pardon, while Damodhur and Rowjee were allowed pardons. What would my learned friend have said if Nursoo had been a soldier, and still come here with a pardon in his hand. Of course the obvious remark my learned friend would have made, would have been this, "these three men have agreed to injure themselves in order to injure the Maharajah, knowing that they will not suffer for it." Now my Lord, there is no doubt a good deal of general truth in many of the observations my learned friend made on the untrustworthiness of giving statements of witnesses taken by the police. In a criminal country, such as India, or in the regulation districts of this country, provincial, is made that that should not be done, but special cases require special procedure. This enquiry conducted by the police here was not an enquiry such as would be conducted by police in the regulation districts. It was an enquiry entered upon by the police with special instructions, the police having been sent for on special duty. There was no magistrate before whom the witnesses could be taken to have their evidence recorded. The enquiry was begun when the Gaekwar was on his *gadee* in full power, and it would have been obviously, I won't say improper, but an indecent thing had Sir Lewis Pelly conducted it.

The Present W^t is there no one on the spot exercising the powers of a magistrate.

The Advocate General There was the Cantonment Magistrate, Dr Seward, who had special functions in regard to the police management of the Cantonment, but there wa- no one besides Sir Lewis Pelly, who could have used magisterial powers in a matter like this. There would have been I say an indelicacy in an enquiry into this matter being conducted by Sir Lewis Pelly himself, and it was a consequence of his feeling that it would not be right that he should conduct the enquiry that Mr. Souter was appointed on special duty for the purpose. The administration of the British power in connection with the State was quite enough to occupy the time of Sir Lewis Pelly and Mr. Richay. Now, my Lord, I apprehend that under these circumstances living regard to the fact that the person criminated was the ruler of the country at that time in uncontrolled exercise of his power, and this was an enquiry made not, because a charge was laid against the Maharajah, but in order to ascertain who the person was who had

Residency was brought forward. That accounts most fully form the trip Sir Lewis Pelly and Mr. Souter contemplated taking at the end of last year to Bombay. They know nothing more had been established except these communications with the Residency servants and therefore felt themselves at liberty to go to Bombay. But the one admission pointed to the others and gradually what would appear to be the truth came out. My Lord, I think that upon a review of the circumstances under which these statements were made to the police, upon a consideration of the evidence which has been given before the Commission and upon a comparison of that evidence so given under circumstances which allowed to the defence the fullest opportunity of cross examination, upon a comparison of that evidence with the statements made by the witness Rowjee I think the Commission cannot but come to the conclusion that the witness examined here have substantially spoken the truth. That my learned friend's ingenuity should have found discrepancies in their evidence I am not surprised, nor, I believe, are the members of the Commission but that these discrepancies do not affect the main facts of the story will be abundantly clear to the Commission when they come to review the evidence. The only witness who has not adhered to his statement is Hemchund Futtelchund, who has perjured himself in the face of the Commission, perjured himself under circumstances which, I think, fully justified the police in detaining the other witnesses in such a manner that they also should not be exposed to the outward influences which have obviously been brought to bear upon Hemchund Futtelchund. Against the mass of the testimony brought forward here in support of the charges against His Highness the Gaekwar, not a single title of evidence has been produced. I have in the course of my address to the Commission pointed out the numerous matters in which it should have been possible and easy for my learned friend, had he been so advised, to have produced witnesses to contradict the statements put forward by the witnesses called by me. Not one of these witnesses was produced by my learned friend, and the Commission will draw their own conclusions from that circumstance. As to Lehwantroo and Salim, my learned friend has stated that in the exercise of what, I am sure was the soundest discretion, he had decided not to call them. My learned friend was not able to speak in terms of much approval of Yeshwantrao and Salim, but when it is remembered that these two men were the confidential servants of His Highness the Gaekwar up to the time of their arrest, and that ever since their arrest they have been kept under a military guard, that they have had no communication whatever with the police, and that since the arrest of His Highness his solicitors have been allowed the most unrestricted private communication with him, I must say it strikes me as very surprising that my learned friend has not called upon them to give their evidence, though, as I have said, I have no doubt whatever that my learned friend has exercised the soundest discretion in not putting these men into the witness box. There is, therefore, no testimony to oppose to that which has been marshalled against the Gaekwar, and unless the Commission should reject altogether the evidence which has been so marshalled as utterly unworthy of credit, I apprehend there can be no doubt whatever but that it will be the painful duty of your Lordships to find these four charged against His Highness amply proved. I have no necessity to make any appeal to your Lordships in regard to the view that you should take in this matter, it is not my province, it would not become me to do so, such is not my instructions. I will only say this, that if there is anything in the argument which I have offered for your consideration upon the evidence which has been recorded, and if there is any truth in the evidence so recorded, then there is no room for sympathy with His Highness. The "persecuted prince," to whom my learned friend

that it is improper to tell a witness that he had better speak the truth, yet the doctrine we laid down long ago been exploded, and though I do not wish to refer unnecessarily to cases in England, and I had not intended to refer to any case at all, I will just point to the case of the Queen against Arviso. 1st Vol Crown cases referred. The Commission will find a most elaborate judgment by Justice Wells, in which he treats as perfectly paradoxical the idea of not telling a witness to speak the truth previous to his statement being taken down. The observation Taylor makes on the subject in his book of evidence is this. (Reads). Now, my Lord, the witness in this case have been severely cross examined, but there is nothing more shown to have taken place than that they were confronted one with another, and in regard to Rowjee and Nursoo, Rowjee told Nursoo "I have told the truth up to the neck." The only exhortation given by Guanjanoo to Nursoo was to speak the truth. I say, therefore, without fear of not being concurred in by all who have paid careful attention to this case, that there is nothing here to justify the contention of my learned friend that it is a police case. So far as the statement of Ameena is concerned and the statements of the witnesses by whom she is corroborated, that statement did not relate to the charge the police were then engaged in investigating. The police were engaged in investigating the poisoning of Colonel Phayre, and it was not till the Gaekwar was suspended, that the charge of having improper communication with the servants of the

has referred so frequently disappears, and the Commission can only look upon him as a criminal worthy of condign punishment. I do not think I can make any further observations upon the case than those I have offered to you, as calmly, I trust, and as dispassionately as it was my duty to do. There are many small points which I have not introduced in my remarks, but I have deemed it right to address myself only to the important parts of the evidence, although I am aware that the consideration of these smaller points might help to show the story told by the witnesses to be true, and that the theory put forward upon the part of the defence is totally unsustainable. I think the Commission most sincerely for the patient and courteous attention with which they have listened to what I have had to address to them, and I pray God that your deliberations may be conducted to a righteous conclusion.

The learned gentleman concluded his address at 12.45, when there was a deep silence of some minutes, after which the Commissioners retired.

THE RESOLUTION OF MAY 1872

TO THE EDITOR OF THE TIMES OF INDIA

SIR.—I have not been put into the witness box either by the prosecution or the defence. I hope you will allow me to say a few words about some matters concerning me personally which were referred to at the enquiry.

It is true that I received a resolution of May 1872. The history of that affair is simply this. Mr Hurrychund Chintamon who is at present in England as His Highness's agent obtained a copy of it before he

from an English friend in England. It was when he sent it to me about 1st June that His Highness, myself and my colleagues came to know of it. Mr Hurrychund brought the existence of this resolution to the notice of Lord Sulbury on the 25th June last. The document was given to the defence by me as I had received it. In the course of a conversation I mentioned the resolution to Sir Lewis Lelly. He asked for a copy of it and I gave it.

Colonel Phyle says I make no complaint to him about his course of proceedings. Colonel Lhavre may have forgotten but is a matter of fact I did complain to him several times. Colonel Phyle says he gave me all the assistance in his power. Had I been so fortunate as to have received it that assistance no necessity would have arisen to write the khureeta of 2nd November. Colonel Lhavre says I more than once acknowledged the assistance he had given me in the matter of the Sirdar cases and others. True but I am only sorry that the occasions were few and far between. I had more occasions to thank Sir Lewis Lelly in one week than I had for thanking Colonel Phyle in three months and I was able to do more work both towards introducing new reforms and redressing old complaints in one week with Sir Lewis Lelly, than I was able to do in three months with Colonel Lhavre.

Colonel Lhavre says the facts of the two instances given in the khureeta of 2nd November are not correctly stated. I have not yet I need what was incorrect in them. For my part I can say that every fact is correctly stated—Yours faithfully,

DADLAHAI NOWROOZI

DAMODHUR PUNT'S CONFESSION

DAMODHUR TRIPPLECK, B.I.M.I.R., late Secretary to H.H. Maharajah Gaekwar, states—

Yeshwanti Rao Yevle, Samm and Rowjee were concerned in the poisoning of Colonel Phayre. In the month of Ashwin about the Dussera the Maharajah asked me to procure some arsenic from him. I replied, where it is kept, giving as cause that he wanted it for aitch and told me to see at the Lourd tree that it was wanted for a horse. I could not get any at the Lourd tree, and told the Maharajah who told me to get it from camp. I told him it wanted express, so said no water about the pass.

I got two tols of arsenic through Nureddin, Borth the Maharajah having told me to promise him a monopoly of the supply of medicine to the Sillikhan. He did not at first say whence he procured it. I took the powder to the Maharajah and asked him whom it was to be given to. He told me to give it to Salim who would prepare the medicine to be made from it. I gave it to Salim. I did not know why he brought it here. Afterwards the Maharajah told me to get a tola of diamond talcum and make ash of it. I ordered Nanje Vitthal to get a tola of diamonds and bring it to the Maharajah. He brought me the tola of diamonds, and I showed it to the Maharajah, and he told me to take it to Yeshwant. I did this part and did not know that it was wanted for this purpose. The Maharajah said at first it would be made a head ornament for a Swami at Akulkote. Afterwards when the Maharajah asked for another tola—this time diamond dust I told Nanje to get it and he brought some diamonds and some diamond dust, and either he or Venkatesh came and gave it me in the evening. I asked the Maharajah what was to be done with it, and he told me to give it to Yeshwant. When I gave it to Yeshwant I told him what I had done with the diamonds that were being given him, he said they were pounded and rubbed fine and given to Colonel Phayre. This took place about five or six days before the attempt to poison Colonel Phayre became known.

On that day I had accompanied the Maharajah as far as Sevai's Durbarshala when the Maharajah picked me up in his carriage. On his return he told me out at once that the poisoning by arsenic of Colonel Phayre had become known. He said that the attempt to administer poison through Salim and Yeshwant had become known. Salim used always to be coming and going to and from the Residency day and night, from the time that Rowjee was corrupted for the purpose of sending information. He was here on that morning and the Maharajah told me that when the master came out Salim had run off to Rowjee's house to get any of the powder that was left and throw it in the fire where the old woman was baking and that as Salim was not fully trusted by Rowjee, Rowjee himself had gone to throw it away whether he did or not, I did not further hear. I asked the Maharajah how this happened to be found out he said that it was because Nuroo Jemadar was not there to be on the watch. He used to keep watch and whistle to give the alarm and as he was not there that morning the thing was found out. The Maharajah had come

earlier than usual. I went home, and that afternoon I Lunched in a house. Nana Sahib and the Maharajah discussed together. In the afternoon Nana and the Maharajah and I drove together and the Maharajah said they must be on the look out about the matter that they will discuss." The next day the Maharajah told Salim in Yeshwantin

that he was in the carriage and was very anxious to speak with himself well informed in such that Rowjee had a lot. That he was a clever scoundrel and that now there was fear for our principal dervive was true. After Colonel Phayre had come and Col Poly came one day the Maharajah told me that he which had stolen in the road and made signs to him that he wanted some present from him (the Maharajah) but that he had told him that he would do nothing now but that when the case was entirely disposed of he would do something for him.

At first after Mr. Souter came, and Rowjee was arrested, and Mr. Souter was said to have come, the Maharajah used to say that Rowjee was not to be blamed as it was all right and there was no cause for fear. Then when Rowjee was arrested he told me he had heard of it, and that it was a big business, then he heard of Rowjee being taken in and arrested, and he told me to make arrangements that no other who might be arrested should be tortured, and enjoining me not to confess even if I died for it, and told the others who knew me run away from it. He told me that he had warned Nana and Hiriba Delhi Salim, and Yeshwant. When the order came from the Residency asking for the surrender of Samm and Yeshwant on the afternoon I met Nana Sahib and he told me that the night will come, and that day will have to be sent, and that it soon now would come to send us to Nana and Damodhar. In the evening the Maharajah told me that the two men had been sent to the Residency and that he had enjoining them not to confess, though they were torn in pieces.

When Yeshwant and Salim were sent to jail, and mother came to see them for them, the Maharajah sent for Yeshwant and enjoined silence upon him again and told him to tell Salim and go to the Residency. The next day the Maharajah told me to act as Govindrao Kali, who was son in pieces, but would not confess, and he gave the same injunction to Nana and Hiriba, who informed me.

The diamonds, I heard from Nanje Vitthal, were brought from Hemchand. Nanje Vitthal had the bill of the saving account, and when I asked the Maharajah to sanction the payment for the diamonds, the following arrangement was made by his order. The Rs 2,000 of the saving account were credited in the khungi, and a corresponding debt was made in the account of Swainee, Narasimha Brahmins feeding.

The diamonds were worth about Rs 7,000 so half payment was made by Nanje Vitthal giving the jeweller the Rs 3,000, which was entered in the accounts as paid for the Brahmins' dinner.

At first when the diamonds were bought they were entire

in the accounts as bought for the Silikhana for medicinal purposes, and when the poisoning was discovered I asked the Maharajah whether diamonds could be used for medicine, as he said, by burning them. He said they could not, and directed the entries in the accounts to be torn up. I told Nanajee Vittul, and he informed me he had done it. I told the Maharajah. The account was not in a book, but, as is the custom, on a loose paper. When I first asked for arsenic from the Foujdaree, Hormusjee Wadia was in charge, and he said he would refer to the Maharajah before giving it, so I did not ask him again. The note asking for it under my signature was left in the record of the Foujdaree as I was informed by Guputrao Bulwunt, who also told me that there was no reason to mind its being there, as there was an entry in the record that the arsenic had not been given.

When Dadaboy wanted to get a return of the sale of arsenic the master was brought before the Maharajah, who wanted to know why the return should be sent, but deuded that it must be given. I then asked Guputrao Bulwunt about our note, as above, and asked him to give it back, when he told me, as above, that there was nothing to fear.

The enmity against Colonel Phayre was the origin of this design in the Maharajah's mind, it increased much when Luxmeebaee's marriage was under discussion. At Nowsaree one night I saw Rowjee bringing some Government papers which he had stolen into the Maharajah's private room, the Maharajah sent for me and told me to copy the papers Rowjee had brought at once in Rowjee's presence. Salim was with Rowjee and the Maharajah. The papers were about Jummabae's business, it was the memorial of Jummabae, which had come to Colonel Phayre for report, and Rowjee stole and brought it to the Maharajah. He brought it about 10 o'clock, and I was copying it till late. I gave it back to Rowjee about 2 o'clock. I destroyed the copy because I was afraid of being stopped and arrested at Surat in connection with the charge brought by Luxmeebaee's husband. Afterwards at Baroda Colonel Phayre had fever and a sore on his forehead from the fever. At that time I heard the Maharajah talking to Salim in the picture-room and Salim explaining that the plaster had not been applied by Colonel Phayre, but that he had felt it burn and had torn it off. Salim told the Maharajah that Rowjee had told him as above, and that it was Rowjee who had doctor'd the plaster.

At the same time, namely, when the Resident had the open wound, the big physician's younger brother brought a bottle of poison made up by the physician, but as there were many of us present he did not give it that time, and he may also have wanted something for it.

In the evening one day, when Colonel Phayre had the boil on his forehead, the Maharajah told me to get some blister flies to send to the younger brother of the big physician. He told me to send through the Foujdaree and have the Wagries sent to catch some flies and taken to the physician. I told Narayenrao Wakusker, who is in the Foujdaree, accordingly.

The next morning the Maharajah told Hariba, in my presence, that the physician's younger brother wanted some snakes to make medicine. The snake man came to me two or three days after, saying he had the snakes that had been ordered, and I told him to take them to Hariba and take his order before going with them to the physician.

Narayenrao brought the blister flies taken by the Wagries and showed them to me, and the next day Goojaba, a servant of Nana Khanwelker, came and showed me some blister flies of the same kind, and I told him to take them to the physician's brother and submit them for his approval. About the same time the Maharajah told me that the physician's younger brother wanted the urine of a black horse, and I gave orders to Bappasee, the kamdar of the Khas Paga, to take some urine accordingly to the physician's brother.

At the same time some arsenic was given from the Foujdaree, but not through me. I don't know how it was given. Had I known of its being given I would not have got some more from the Borah. Some days after the supply of these articles the physician's brother brought the bottle, as above stated, not getting what he wanted for it.

The Maharajah wanted the stuff, but did not want to give what the man demanded, so suggested to Nana Khanwelker to get some of the contents of the bottle, and a day or two after, about 9 o'clock at night, Goojaba came to me with the bottle which the physician had made, and told me that he had taken it to the Maharajah, and that he had been ordered to bring it to me, and that I was to take some out of the bottle and keep till the next day, and then give it to Salim. I poured some out of the physician's bottle into a small bottle of mine, which had held attar, and gave the other bottle back to Goojaba, and the next day Salim came to my house about 9 o'clock, and I gave him the bottle to take to Rowjee to poison the Sabir. This I understood perfectly, though I did not tell Salim to give it to Rowjee.

There were three distinct plots to poison Colonel Phayre —

1st By the Physician's stuff.

2nd By the poisoning the plaster for Colonel Phayre's boil.

3rd. By the arsenic which was discovered.

The arsenic that was first given to Salim was to poison the plasters

Twice I got arsenic from Nowreddin Borah by order of the Maharajah, on each occasion two tolas. After the poison business came out I asked Nowreddin whether he had entered the arsenic in my name, he told me that the camp Borah from whom he had bought it had not entered it at all in my own name, but the second time had entered it as given to Nowreddin for the "Khangewalls," and now wanted #200. I told Nowreddin to give #200 to him, knowing that when Nowreddin got the Silikhana business it could be adjusted in the accounts. He did not give the money, I believe. I don't know the camp Borah, but he lives in the city.

After the poison business had come out, when I first talked on the subject to Nanajee Vittul, I found that he had suspected that the diamond dust was intended to be used to poison Maisabae, against whom Luxmeebaee has a hatred. I told him at that time about the account business by which the transaction was to be concealed.

Examination of Damodhur Trimbak resumed

30th January 1875.

Yeshwantrao used to take money to give in bribes to the servants, but latterly Salim took the money from the private account and it used to be debited to fruit from Ahmedabad, &c., fireworks, &c., always some fictitious entry. I should think he must have taken 2,000 or 3,000. Bulwantrao Rowjee used to write the private accounts under my instructions, as I had charge of the money, and made payments by the Maharajah's orders. When money was to be paid to Salim for the above purposes, the Maharajah gave me general orders to make such fictitious entries.

The Maharajah told me after the poison business came out, and Yeshwantrao and Salim had been caught, that if there were any suspicious entries left in the accounts they should be altered, erased, or concealed. On this order I told Bulwantrao to dispose of suspicious items accordingly. He assented, but in a day or two came and said that the accounts were not such as could be so tampered with. I consulted Madhoora another karkoot, and finally ink was to be poured on the items in question, and I told him to blot in the same way other items also, so as to avert suspicion from the particular entries. I saw one such blotched item, which Bulwantrao showed me as a specimen. I understood

this much about the fictitious items, that the fruit, &c., was not even really bought, but the money was given to Salim to use in bribery at the Residency. This practice of bribing through Yeswant and Salim had been in force for about a year and a half.

About four months ago 1,20,000 Babasayee rupees was paid to Premchund Roychund through Ootemchund Jeweree. An anklet was bought from Ootemchund and the above sum was paid to him in excess of its value. Moro Punt, Nana Khanwelker's servant, was engaged in the business, which was to get recognition of Luxmeebae's child by Government, it was said to be for a bribe to Mr. Gibbs. I thought that Premchund kept the money, as I heard that he had redeemed Rs 60,000 worth of property out of mortgage, and I suspected it was with this money.

Ootemchund Premchund, Moro Punt and the Maharajah were upstairs together. When the Maharajah came down he told me that three and a quarter lacs were to be paid for the anklet 1,20,000 to be paid at once and the rest afterwards. The anklet had been given before this passed. The anklet was in the jewel-room, and Nanajee Vitthal, jewel-keeper, was instructed by both the Maharajah and me to send in his note for the payment of the sum settled, viz., 3½ lacs from the Khanjee. His note would be changed in the Khanjee by the Maharajah's verbal order, the cash being drawn from a State shop as general rule. In the Khanjee day-book it will be seen where the cash came from.

The connexion with the same intrigue for the recognition of Luxmeebae's marriage and her son's legitimacy, a Baboo, was brought by Motulall Dulpuram, and Moro Punt, who was paid two sums of about Rs. 25,000 and 20,000 in Government notes, which were brought from Bombay by Ootemchund in Rs 1,000 notes.

The Baboo, come twice and received the money as above on the two occasions. These items may perhaps appear in the day-book with Luxmeebae's signature, as she used to sign sometimes for the Maharajah.

The Baboo came from Calcutta and talked English with Motteall, who would interpret to the Maharajah.

When the Baboo came first there was a meeting at Mukunpoora, and there were present —The Maharajah, Nana Khanwelker, Moteeram Dulpuram, the Baboo, Moro Punt and myself.

#25,000 were given him there, and a promise of large reward if the matter were carried through successfully. On the second visit of the Baboo, when he was paid #20,000, the money was given by me at the Maharajah's order to Moro Punt, and I know nothing of what became of it, but it was to be given to the Baboo.

All the criminal proceedings in which the Maharajah was engaged originated with himself he did not act under any one's advice that I know of. I speak now of the matters of which I was personally cognizant. I know that Bhaosenda, Govindrao Naik, and Rowtee Master, and others, were killed by the Maharaja's order, but I was not personally concerned in these matters, which were conducted through the Foudaree department officers, during the regime of Bulwantrao Rahorekar, at which time, I was not allowed access to the Maharajah. I was taken into favor for my services in connection with Luxmeebae's marriage. Before that time I had been in the Khanjee department for about two years and knew about the accounts.

The order on the Hoozoor Foujadar Kandar to send a pass for arsenic, now shown me, is in my handwriting, and is the order which I sent by the Maharajah's direction, as stated in my deposition yesterday, and the words "required for medicine for a horse" were used also by the Maharajah's order as before stated. The pass for arsenic which I sent for by this order, I did not receive, but as above stated, got the arsenic from the Borah.

Damodhur Trimbuck, Brahmin, States
I was Private Secretary to His Highness Malhar Rao. I

am the same Damodhur Punt or Trimbuck who has given evidence before Mr. Richey and Mr. Souter in the case of the attempt to poison Colonel Phayre.

On the 29th January I stated before Mr. Richey, that I asked him (Yeswant) what he did with these diamonds "that were being given him, he said they were pounded and rubbed fine and given to Colonel Phayre." This was done, and thus what I stated on the 29th. (The deponent here indicates with his hands the action of pounding or bruising in a mortar.)

On the said 29th, I further stated that "Salim came to my house about 9 o'clock, and I gave him the bottle to take to Rowjee to poison the Sahib. This I understood properly. This is true and thus is what I said.

The question put to me by Mr. Souter this morning, when he understood me to say that I was not cognizant of the attempt to poison, until the day of its discovery, was misunderstood by me. What I did say was that I had already stated what I had to say on the matter. I was fully cognizant that the poison was to be given to Colonel Phayre before the attempt was made.

Damodhur Punt's examination resumed 3d February 1875.

I held the position of Private Secretary to H. H. the Maharajah Mulharaao, and had charge of all his private business, known as the Khanjee Department.

About a week before the Maharajah was made prisoner, he brought me to the Residency and introduced me to Sir Lewis Pelly at the door as his Private secretary.

It was the habit of the Maharajah to go for a drive three times during the day, and he always took me once or twice with him.

Whenever the Maharajah visited the Residency I used to accompany him as far as the Sevak's dhurumsala, where I generally got out of the carriage and waited till the Maharajah's return, when he took me in again and drove me to my house on his way to the palace. The Maharajah was usually driven by a coachman named Rutansing.

I do not know why it was that the Maharajah put in force measures to poison Colonel Phayre without first waiting to ascertain the result of his khureeta addressed to the Viceroy urging his removal.

I never knew that Mrs. Phavre's ayah had ever visited the Maharajah till I heard from him that she had also been taken up and made a prisoner of. It was characteristic of the Maharajah not to divulge to anybody the plots which he used to put in force, and to confine such secrets to those actually engaged.

Damodhur Trimbuck, Brahmin, after having read the translation into Marathi of the depositions which he gave before Mr. J. B. Richey on the 29th and the 30th ultimo, wishes that the following corrections be introduced. —

1. Insert the word "makadna" before the words "blister flies" in the deposition of the 29th.
2. Insert the word "about" before the word "#3,500" in the same.
3. The last sentence of the deposition of the 29th should be read as follows. —

"I told him about that time that it was necessary to conceal the transaction by changing accounts."

No changes are to be made in the deposition of the 30th ultimo.

The above corrections were made in my presence, and were translated to me by K. G. Deshmukh.

Damodhur Punt's examination resumed 5th February 1875.

I have stated in my deposition of the 29th January, that I procured diamond chips on two occasions by order of the

Maharajah. I do not remember the exact dates on which they were obtained, but as well as I recollect, about a week intervened between the two occasions when I procured them.

The sum of money which have been entered in the accounts of my department, as having been paid to Yeshwantrao and Salim under the head of fruit, fireworks, &c., represent the amounts which were paid by me in obedience to a standing order of the Maharajah, for the purpose of bribing Rowjee, Nursoo Jemadar, and other servants at the Residency.

It was no part of the duties of Yeshwantrao or Salim to purchase fruit or fireworks for the Maharajah.

The Maharajah and Salim both told me that the details of the plot to poison Colonel Phayre had been personally planned by the Maharajah himself, and the execution of them arranged in his presence by Yeshwantrao Rowjee Salim, and others.

The written information which the Maharajah had arranged to obtain, through Rowjee of all that transpired at the Residency, used to be delivered to the Maharajah by Salim, and either Wusumiran Bhow or I used to read them to him and the papers were immediately destroyed.

The two sums of ₹ 25,000 and 20,000 paid to the Calcutta Baboo have been entered in my books as having been paid to Bhikoo (a kept woman of the Maharajah's) and the relations of Luxmibai.

I am aware that while Baluntrao Rahoorkur held the office of Deputy Dewan he was the Maharajah's principal counsellor in all his wicked designs, and it was he who took the principal part in bringing about the poisoning and murder, by other means, of Govind Naik, Rowjee Master, and Bhow Scindia.

I have stated above that it formed no part of Yeshwantrao's or Salim's duties to purchase fruit, fireworks, &c., but I now remember that on one occasion Yeshwantrao did bring some fireworks, either from Bombay or Ahmedabad and this was about the time of the "Dewalee" 1873.

The orders and vouchers in Marathi, lettered from A to F, and each bearing my endorsement, are the original documents and authority under which the sums shown in each were paid to Yeshwantrao under the Maharajah's instructions for the purpose of bribing the servants at the Residency and others. Those papers lettered from G. to Q. show sums of money similarly paid to Salim for the same purpose.

I have to the best of my knowledge and belief, stated all I know, but shall willingly furnish hereafter any further information that I may remember.

Memorandum from Bombay goods were caused to be brought to the Khassay through Yeshwanta, the son of Mahipati Yeolay, the Sirkar's courier. For the payment of the money for the same, the Sirkar's permission was granted. In accordance therewith what was paid in ready cash (was as follows) :—The Soor San [year] one thousand two hundred and seventy-four (the Mahomedan) lunar day the 3rd, that is the (Hindoo) lunar date the 4th (conjoined) with the 5th of Margshirish Shoodhya, the Sumvat [year] 1880 (24th November 1873) Monday.

Machine-made (rupees) were purchased in the bazaar at the place of business of Parakh Goverdhan Dulpat and delivered. For the same the Babashai (rupees) together with (the amount of) exchange that were paid to Parakh were as below mentioned

Principal Surat (rupees) 1,000
For exchange at the rate of ₹ 18 $\frac{1}{4}$ per cent. 187 $\frac{1}{4}$

In all 1,187 $\frac{1}{4}$

Babashai (rupees) paid out of the Treasury 2,000

In all 3,187 $\frac{1}{4}$

In accordance with the above memorandum, the Sirkar's permission was granted for the payment of rupees three thousand one hundred and eighty-seven and a half. The lunar date, the 5th of Margshirish Shoodhya, the Sumvat (year) 1880 (25th November 1873).

(The text of what follows is in Guzerathi) :—

Payment—Nayak Ashantro Avla Rs. 1,000 of the Bombay currency, Babashai Rs. 2,000 in all three thousand have been received in full by the hands of Parakh Javer Lukhmidas, who received (the same and) went away.

Brought to account on the 8th lunar day (the month of Sawal, that is in the month of Margshirish) the Sumvat (year) 1880. (November-December 1873.)

Memorandum.—In order that goods might be purchased and brought from Ahmedabad, the Sirkar's permission was granted for the payment of money for (his) expense suit Yeshwanta, son of Mahipati Yeolay, the Sirkar's couriers. In accordance therewith what was paid in ready cash [was as follows] :—The Soor San [year] one thousand two hundred and seventy-five, the (Mohammedan) lunar day the 8th, that is the (Hindoo) lunar date the 10th of Margshirish Shoodha the Sumvat [year] 1880 (29th November 1873), Saturday.

Machine-made [rupees] were purchased at the place of business of Parakh Goverdhan Dulpat in the bazaar, and delivered for the same. Babashai [rupees] were paid to Parakh [as below] :—

Principal Surat [rupees] by the hands of Gunpatrao, corrected to [a] Narayanrao, son of Bhikoba Selkay, attached to the small Khas Paga 10 0 0		
For exchange at the rate of Rs. 18 $\frac{1}{4}$ per cent 1 14 0		
	11 14 0	11 14 0
Babashai [rupees] paid in ready cash		7 0 0
		18 14 0

In accordance with the above memorandum, the Sirkar's permission was granted for the payment of rupees eighteen and fourteen annas, to Narayanrao Shilkay Burjir of the small Khas Paga. The lunar date, the 10th of Margshirish Shoodha for the Sumvat [year] 1880 (29th November 1873).

In respect of the above memorandum, machine-made rupees [10] ten, and Babashai rupees [7] seven, were received in ready cash in full out of the treasury. By the hands of Narayanrao Shilkay the said [rupees] were received in full from Yeshwantrao Yeolay. The handwriting of Krishnajeet Ramchandra Kelkar.

[The letter attached to document marked B, as translated is as below] :—

To Rajeshti Halwantrao Rowjee, in the private service of the Sirkar.

Further Narayanrao Shilkay is now sent. Do you therefore pay him machine-made rupees ten and [give him] a piece of jagannath [jacconet cloth] immediately out of the treasury; or pay him rupees seven for the purchase [of the cloth] in the bazaar, or cause it to be delivered by Chonial. The lunar date the 10th of Margshirish Shoodha the Sumvat [year] 1880 (29th November 1873).

Brought to account on the 15th lunar day, the month of Sawal that is in the month of Margshirish, of the Sumvat [year] 1880 (6th December 1873).

Memorandum.—Goods were caused to be brought from Ahmedabad by means of Yeshwanta, son of Mahipati Yeolay, a courier in the service of the Khassay. The Sirkar's permission was granted for the payment to him of machine-

made money for the same. In accordance therewith Surat money was to be paid. The same was purchased in the bazaar at the place of business of Parakh Goverdhan Dulpat, and was delivered. In respect thereof the Babashai [rupees] were to be paid in ready cash. The [15th lunar day] the month of Sawal in the Soor San [year] one thousand two hundred and seventy-four; that is the lunar date the 2nd of the month of Margashirsh Vadya of Sumvat 1930 [6th December 1873], Saturday.

Principal Surat [rupees] by the hands of Salim, son of Ali Arab, a Sepahi in the service of the large Khas Paga, employed in the message-bearing business of the camp. Through Yeshwanta Yeolay, a courier..... 200
For exchange at the rate of ₹ 18 per cent..... 38

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dum I have received in ready cash in full out of the khangi [private] treasury. By the hands of Salim Ali. The handwriting of Bhikaji Wishwanath Abetkar. At Salim's request [this] is given in writing.

Brought to account on the 21st lunar day, the month of Zilhez, that is the month of Magh, the Sumvat [year] 1930 [9th February 1874].

Memorandum.—For purchasing and bringing goods from Bombay the Sirkar's permission was granted for the payment of machine-made money, for expenses to Yeshwanta, son of Mahipati Yeolay, a courier in the service of the Khassay. In accordance therewith Surat [rupees] were to be paid. The same were purchased in the bazaar at the place of business of Parakh Goverdhan Dulpat and were delivered. For the same Babashai [rupees], together with exchange, were paid to Parakh in ready cash. The 21st day of the month of Zilhez, the Soor San [year] one thousand two hundred and seventy-four, that is the [Hindoo] lunar date the 8th of the month of Magh Vadaya the Sumvat [year] 1930 [9th February 1847], Monday.

Principal machine-made [rupees]..... 200 0 0
For exchange of the rate of ₹ 18 per cent..... 37 8 0

237 8 0

The above machine-made rupees two hundred were paid to both these persons [namely] Salim, the son of Ali, a trooper, and Mahaddeo Kalay, a trooper in the service of the large Khas Paga. By the hands of the persons abovenamed themselves.

In accordance with the above memorandum the Sirkar's permission was granted for the payment of machine-made rupees two hundred. The lunar date the 8th of Magh Vadaya the Sumvat [year] 1930 [9th February 1874].

In respect of the above memorandum machine-made Rs. 200. I have received in ready cash in full out of the khangi [private] treasury. By the hands of Madhavrao and Salim. The handwriting of Madhavrao Kalay.

Brought to account on the 24th lunar day the month of Sawal, that is in the month of Margashirsh the Sumvat [year] 1930 [Nov.-Dec., 1873].

Memorandum.—For bringing goods from Ahmedabad in accordance with the permission granted by the Sirkar what was to be paid for expenses to Salim, the son of Ali, a trooper receiving monthly wages, attached to the Khas Paga in the service of the Khassay, (were as follows) :—The Soor San [year] one thousand two hundred and seventy-four. The lunar date the 11th of Kartik Vadaya the Sumvat [year] 1930 [15th November 1873], Rs. 100.

In accordance with the above memorandum the Sirkar's permission was granted for the payment of Rs. 100. The lunar date the 11th of Margashirsh Vadya Sumvat [year] 1930 [15th December 1873].

[The text of what follows is in Guzerathi]:—

Rs. 100, namely, one hundred, in respect of the said note were received by Salimbhoy, son of Ali, a trooper of the Khas Paga, attached to the large Khas Paga. The handwriting of Mathoor Ragoonath.—The mark [has been made] by the hand of the trooper himself. The lunar date the 11th of Maghaar Vadi [15th December 1873].

Brought to account on the lunar day of Zilkad, that is the month of Poush, the Sumvat [year] 1930 (24th December 1873).

Memorandum.—Fireworks and other things were sent for (to be brought) from Bombay through Salim, the son of Ali Arab, a trooper attached to the large Khas Paga, employed in the message-bearing business of the camp. The Sirkar's permission was granted, for the payment of Surat (i.e. machine-made) money for the charge thereof. In accordance therewith, Surat [rupees] were to be paid.

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memorandum were received in full out of the khasagi, treasury. By the hands of Salim, the son of Ali Arab, in the service of the large Khas Paga. The handwriting of Bal Krishna Hari Kodikar. At the request of the owner of the goods [this] is given in writing.

Brought to account on the 30th lunar day the month of Zilkad, that is in the month of Poush, the Sumvat [year] 1930 [19th January 1874].

Memorandum.—To the Khassay goods were caused to be brought from Bombay through Yeshwanta, son of Mahipati Yeolay, the Sirkar's courier. The Sirkar's permission was granted for the payment to him of Babashai money for the same. In accordance therewith what was paid in cash [was as follows] :—The 26th lunar day the month of Zilkad the Soor San [year] one thousand two hundred and seventy-four. The [Hindoo] lunar date the 13th the month of Poush Vadaya the Sumvat [year] 1930 [15th January 1874] Friday. ₹ 600.

In accordance with the above memorandum the Sirkar's permission was granted while [the Sirkar] was in the Palace, before, the payment of rupees six hundred. The lunar date the 13th of a Poush Vadaya, the Sumvat [year] 1930 [16th January 1874].

₹ 600 [six hundred] [in respect] of the above memoran-

The same were purchased at the place of business of Parikh Goverdhan Dalpat in the bazaar, and were delivered. In respect thereof Babashai [rupees] together with exchange were paid to Parikh. The 3rd lunar day the month Zilkad in the Soor San [year] one thousand two hundred and seventy-four. The [Hindoo] lunar date the 5th of the month of Poush Shoodhya, the Sumvat [year] 1930 [24th December 1871], Wednesday.

Principal Surat [rupees]. By the hands of the said Salim himself #300 0 0
For exchange at the rate of #.184 per cent. . 56 4 0

#356 1 0

In accordance with the above memorandum the Sirkar's permission was granted for the payment of rupees three hundred and fifty-six and four annas. The lunar date the 5th of Poush Shoodhya, the Sumvat [year] 1930 (24th December 1871).

In accordance with the above memorandum machine-made #300 I have received in full. By the hands of Salim. The handwriting of Madhavrao Kalay.

Brought to account on the 6th lunar day the month of Zilhez, that is the month of Magh, the Sumvat [year] 1930, [25th January 1871]

Memorandum—For the purpose of bringing goods from Bombay the Sirkar granted permission to pay machine-made money to Salim Ali. In accordance therewith [the money] was to be paid. The 6th lunar day the month of Zilhez in the Soor San [year] one thousand two hundred and seventy-four. The [Hindoo] lunar date the 6th of the month of Magh Shoodhya of Sumvat [year] 1930 [25th January 1871]

Principal machine made rupees #100 0
For exchange at the rate of rupees 1 $\frac{1}{4}$ per cent. 7 0

Total #17 0 0

In accordance with the above memorandum the Sirkar's permission was granted for the payment of machine made rupees four hundred. The lunar date the 8th of Magh Shoodhya, the Sumvat [year] 1930 [25th January, 1871]

In respect of the above memorandum machine made #400 have been received in ready cash in full out of the khangi [private] treasury. By the hand of Salim the son of Ali Arab attached to the large Khas Paga. The hand writing of Kesavchintan, son of Trimbakhat Madavgany. At Salim's request [this] is given in writing

Brought to account on the 15th lunar date, the month of Mohurruin, that is in the month of Falgoon of the [the year] S. [Sumvat] 1930 [15th March 1871].

Memorandum—Salim the son of Ali, a siphni, is going to Ahmedabad to bring goods, consequently the Sirkar's permission was granted for the payment to him of money for expenses. In accordance therewith ready cash was paid. The 20th lunar day the month of Mohurruin in the Soor San [year] one thousand two hundred and seventy-four, that is the 12th of the month of Falgoon Vadya, of the Sumvat [year] 1930 [15th March 1871] Sunday. #50.

In accordance with the above memorandum the Sirkar's permission was granted for the payment of rupees fifty. The lunar date the 12th of Falgoon Vadya [the year] S. [Sumvat] 1940 [15th March 1871].

#50 [in respect of] the above memorandum I have received in ready cash in full out of the khangi [private] treasury. By the hands of Salim, the son of Ali, a trooper attached to the large Khas Paga. The handwriting of Govindrao Kasinath Patvardhan. At the request of the said Salim, this is given in writing. The lunar date the 12th of Falgoon Vadya [the year] S. [Sumvat] 1930 [10th March 1871].

Memorandum—The Sirkar's permission was granted for the payment of machine-made money to Salim, son of Ali, a trooper attached to the large Khas Paga, for the purchase of fruit. In accordance therewith what was to be paid [was as follows] —The 7th lunar date, the month of Raboolaval, the Soor San [year] one thousand two hundred and seventy-four, that is the 8th of the month of Waishakh Shoodhya [the year] S. [Sumvat] 1930 [24th April 1871]. Machine made [rupees] for the purchase of fruit #200 Babashai [rupees] for the wages of a siphni 7

#207

In accordance with the above memorandum, the Sirkar's permission was granted for the payment of machine made

April 1871] at Nowsaree.

In respect of the above memorandum machine-made #200 and Babashai #7, making together #207 (two hundred and seven) I have received in full. By the hands of Salim the son of Ali, attached to the large Khas Paga. The handwriting of Wamroo Rainghi. The lunar date, the 8th of Waishakh Shoodhya of [the year] S. [Sumvat] 1930 [24th April 1871], the day of the week, Friday.

Memorandum—The Sirkar's permission was granted for the payment of machine-made money to Salim, the son of Ali, a trooper attached to the large Khas Paga for the purchase of fruit. In accordance therewith money was to be paid. The 8th lunar day the month of Raboolaval, the Soor San [year] one thousand two hundred and seventy-four, that is the 9th of the month of Waishakh Shoodhya [the year] S. [Sumvat] 1930 [20th April 1871] Saturday machine made #1,000

In accordance with the above memorandum the Sirkar's permission was given face to face for the payment of machine made rupees one thousand. The lunar date the 9th of Waishakh Shoodhya [the year] S. [Sumvat] 1930 [20th April 1871] at Nowsaree

In respect of the said memorandum machine-made rupees 1000 [one thousand] I have received in full. By the hands of Salim, son of Ali himself. The handwriting of Anapir Niraven Penday. The lunar date the 9th of Waishakh Shoodhya [the year] S. [Sumvat] 1930 [25th April 1871]

Memorandum—the Sirkar's permission was granted for the payment of Babashai money to Salim, a trooper attached to the large Khas Paga for bringing goods from Bombay. In respect thereof what was to be paid [was as below] — The month of Raboolaval, the Soor San [year] one thousand two hundred and seventy-four, that is the 30th of the month of Waishakh Vadya of [the year] [Sumvat] 1930 [1st May 1871] Friday. Babashai #200.

In accordance with the above memorandum the Sirkar's permission was granted for the payment of Babashai rupees two hundred. The lunar date the 14th of Waishakh Vadya of the year [Sumvat] 1930 [17th May 1871] at Nowsaree.

In respect of the above memorandum Babashai #200 I have received in full. By the hands of [and] the handwriting of Madhavrao Kalay, attached to the large Khas Paga. The date aforesaid

Brought to account on the 22nd [Mahomedan] lunar day, the [Hindoo] lunar date the 9th of Jesht Vadya the Sumvat [year] 1931 [a] [8th June 1871].

Memorandum.—Fruit was caused to be purchased, and brought from Bombay through Salim, son of Ali Arab. The Sirkar's permission was granted for the payment of

cmoney in respect thereof. In accordance therewith ready cash was paid [as below]. The month of Rabioolakbir the Soor San [year] one thousand two hundred and seventy-five, that is the lunar date the 9th of Jesh Vadya, the Sunvat [year] 1931 [a] [8th June 1871].

permission was granted for the payment of rupees one thousand. The lunar date, the 9th of Jesh Vadya, the Sunvat [year] 1931 [a] [8th June 1871].

In respect of the above memorandum #1,000 [one thousand] have been received in full out of the khanges [private] treasury by Salim Arab. By the hands of the said Salim himself. The handwriting of Purshotam Hari. At Salim's request [this] is given in writing. The lunar date the 9th of Jesh Vadya, the Sunvat [year] 1931 [a] [8th June 1871].

Brought to account the 17th [Mahomedan] lunar day the month of Jamadulawal that is the intercalary month Ashadh [the year] S. [Sunvat] 1931 [a] [2nd July 1871].

Memorandum.—Fruit was caused to be brought from Poona through Salim, son of Ali Arab, a trooper attached to the Khasay. The Sirkar's permission was granted for the payment of money for the same. In accordance therewith ready money was to be paid. The [Mahomedan] 17th lunar day the month of Jamadulawal the Soor San [year] one thousand two hundred and seventy-five, that is the lunar date the 3rd of the intercalary Ashadh Vadya [the year] S. [Sunvat] 1931 [a] [2nd July 1871], Thursday, Rs 20.

In accordance with the above memorandum the Sirkar's permission was granted for the payment of rupees two hundred and fifty. The lunar date the 4th [b] of the intercalary Ashadh Vadya [the year] S. [Sunvat] 1931 [a] [3rd July 1871].

[The text of what follows is in Gurerauli.—]

Written by Salim Ali agreeably to what is written above, Rs 200 [namely] two hundred and fifty have been received in full. By his own hands. The handwriting of Dulipratam Bapoojee. At the desire of the party this has been given in writing.

[The text of what follows is in Marathi.—]

Nett machine-made #200
For exchange at the rate of 13½ ... 18½

the price thereof, what was to be paid to the said Salim [was as follows] —The lunar day [b] the Rajab the Soor San [year] one thousand two hundred and seventy-five, that is the lunar date 7th of the month of Shrawan Vadya, Wednesday [2nd September 1871]. Rs. [as follows] —

Nett machine-made..... #100
For exchange at per cent 19½

#110½

In accordance with the above memorandum the Sirkar's permission was granted for the payment of machine made rupees a hundred. The lunar date the 7th of Shrawan Vadya a Sunvat 1931 [2nd September 1871].

[The text of what follows is in Gurerauli.—]

Borgir Salim, son of Ali, agreeably to what is written above, machine-made #100, namely a hundred, have been received in full. By [his] own hands. The handwriting of Shah Atmaram Ramdas [written] at the desire of the party.

Brought to account the lunar day the of 1st the month of Ashin [the year] S. [Sunvat] 1931 [a] [18th October 1871].

Memorandum.—Through Salim, son of Ali Arab, a trooper attached to the Khasay, fruit was caused to be brought from Ahmedabad. The Sirkar's permission was granted for the payment of the money for the same.

In accordance therewith ready money was paid [as follows] —The lunar day the 1st, the month Ramzan, the Soor San [year] one thousand two hundred and seventy-five, that is the lunar date the 1st of Ashwin Shuddhi [the year] S. [Sunvat] 1931 [1st October 1871]. Rs 200.

In accordance with the above memorandum the Sirkar's permission was granted for the payment of rupees two hundred. The lunar date the 1st of Ashwin Shuddhi [the year] S. [the Sunvat] 1931 [1st October 1871].

Rupees two hundred [in respect] of the above memorandum. Given in writing at the desire of Salim. The handwriting of Kesao Balakrshna Bocchikay now at Birodi.

The deposition of Damodhar Trimbach, Brahmin, resumed.

The two memoranda in Marathi now shown to me [lettered I and II] were addressed to me by Nampi Vitthal and my request with the object of concluding the purchase of the diamond clip obtained from Hemchand Lutychund. The two documents purport jointly to acknowledge the receipt of the sum # 3,000 from the "Savang Lands," and the Marathi order bearing my endorsement now shown me [lettered I] is my authority to debit the above sum under the heading of expenses incurred in feeding Swami Narayan's Brahmans. In reality the money was paid to Hemchand Lutychund, on account of diamond clip purchased from him for the purpose of poisoning Colou i Phagie, and represent the sum of # 3,000, referred to in my deposition of the 29th January. On that day I stated the amount to be # 3,000, or so, as I was giving my deposition from memory. The documents above referred to [lettered II and III] have now been found amongst my records which show that the actual amount was # 3,602 13-3 of Baroda currency.

Brought to account the 24th lunar day the month of Rajab, that is the month Shrawan, the Sunvat [year] 1931 [a] [8th September 1871].

Memorandum.—Through Salim, son of Ali, a trooper receiving monthly wages, attached to the large Khas Paga, serving under the Khasay. Articles [consisting of] fruit were purchased and brought from Ahmedabad to the Khasay. In accordance with the Sirkar's permission granted for the payment in ready cash of machine made money as

